

# A Special Safeguard Mechanism for Agricultural Imports and the Management of Reform

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## Abstract

The record of traditional safeguard provisions of the General Agreement on Tariffs and Trade and the World Trade Organization provides useful information about how a special agricultural safeguard might be made effective. The success of existing safeguard or flexibility provisions to sustain long-run liberalization programs stems from their requiring objective, transparent, and participatory decisions on the application of the import restrictions they allow. The proposed special agricultural safeguard expands by arithmetic formula the bounds within which a Member may impose a new import restriction. Analysis reported here suggests that the formulas provide a poor guide for policy, indicating that

they would frequently prescribe action that is not needed and fail to prescribe action when it would be appropriate. Analysis of the existing agricultural safeguard, to which the special agricultural safeguard is similar, indicates that it has functioned not as an allowance for occasional response to unusual situations but as an expansion of the limits Members have accepted through tariff bindings. To be useful, the special agricultural safeguard should do more than provide formulas for import restrictions. It should provide for objective and participatory processes that would bring forward relevant information and guide an objective and balanced accounting of the interests at play.

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# **A Special Safeguard Mechanism for Agricultural Imports and the Management of Reform**

**by**

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## Summary

WTO Director-General Pascal Lamy, in announcing failure of the July 2008 ministerial meetings, reported that out of a to-do list of 20 topics, 18 had seen positions converge but the gap did not narrow on the 19th — the special safeguard for agriculture (SSM). I examine here the proposed SSM against the experience of the international community with other GATT/WTO safeguard provisions.

### Other GATT/WTO flexibility provisions

In GATT's early decades renegotiation of previously agreed tariff bindings was the most frequently used flexibility provision. As the GATT/WTO system became more juridical, adjustments previously treated as negotiations were taken up as evaluations against specified criteria. These evaluations are unilateral in that they are conducted by national authorities, but evaluation is against a collectively agreed 'just cause' (e.g., injurious dumping) and it follows collectively agreed procedures. The procedures involve input from foreign interested parties as well as domestic and national applications are under continuous international scrutiny. The various GATT/WTO flexibility provisions – renegotiations, Article XIX safeguards, antidumping, restrictions to protect the balance of payments – have been extensively used but pragmatically speaking, not overused. Since the Uruguay Round agreements are in effect, in no country has this use outpaced the general thrust of liberalization.

### SSM proposals

The SSM would allow the imposition of an additional import duty in response to an import surge (volume trigger) or when the price of imports falls markedly below previous prices (price trigger). There would be limits on the number of tariff lines on which a country could at any time have SSM measures in place as well as on the magnitude of the additional duties. The SSM would be available only to developing countries, in form it parallels the existing agricultural safeguard (SSG) that has been used largely by developed countries. Current differences in proposals are primarily over the parameters of the triggers and limits. The G-33 of developing countries proposes parameters that would allow more and larger import restrictions. Proposals from developed countries, principally the EEC and the USA, would allow fewer and smaller.

### SSM formulas as policy guidance

The SSM or any other trade policy mechanism should not be judged by the frequency with which it would allow or not allow import restrictions. It should be judged by how effectively it distinguished instances in which restriction was the better choice from instances in which not to restrict was the choice that better advanced the implementing country's interests.

By this standard, the usefulness of the trigger formulas does not stand up well against evidence. One relevant analysis is Raul Q. Montemayor's (2008)

simulation exercise. As to triggering additional duties in periods of serious domestic-price undercutting by imports, his results show that:

- in more than half of the periods of serious price undercutting, the SSM would not have triggered an additional duty, and
- more that half of the additional duties triggered would not be in periods of serious price undercutting.

A second analysis, one I conducted with Francis Ng, pays attention to the SSM (as the SSG) using unit values of imports from all sources as the basis for trigger prices. Prices often differ considerably from source-to-source, the result could be to authorize restriction when there was no surge of import volume or change of price from the previous years. We found that in a given year, unit values from specific countries are sufficiently below aggregate unit values to trigger restrictions on 59 percent of agricultural tariff lines. By comparison, the tariff modalities allow each developing Member to exempt one-third of tariff lines from full application of the tariff formula as Sensitive Products, 12 percent as Special Products. Thus typical 'noise' in trade data means that the SSM will bring with it a flexibility almost twice as large as the Special Products and Sensitive Products exemptions in the tariff negotiations. Unit values tend to be lower on shipments from developing countries, hence these spuriously allowed restrictions are most likely to apply exports from developing Members.

#### 'Filling in' against shocks is difficult

The finding above – that rules to 'fill in' with policy remedies in 'exceptional' years are likely to be inaccurate – is not an isolated one. Studies sparked by an earlier, 1970s, concern to deal with the instability likewise found that workable decision rules to identify when a buffer stock should buy or sell, or when the IMF's Compensatory Finance Facility (CFF) should lend or collect, were difficult to devise. Simulations indicated that even when determinations of trend were based on sophisticated regressions, buffer stocks turned out to be on the wrong side of the market as often as on the correct side. Viewed in retrospect, more than half of CFF borrowings had been in years in which export receipts were above trend.

#### Conclusion

The proposed SSM formulas would provide a poor guide for policy – would frequently prescribe action when it is not needed, frequently fail to prescribe action when it is appropriate. There are no procedural requirements that might otherwise guide good policy choice. It, like the existing SSG, would function minimally as a guide for making decisions as to when an import restriction might be appropriate, principally as an expansion beyond tariff bindings of the GATT/WTO's limits on the restrictions a Member can impose unilaterally.



# **A Special Safeguard Mechanism for Agricultural Imports and the Management of Reform**

WTO Director-General Pascal Lamy, in announcing the failure of the July 2008 ministerial meetings, reported that of a to-do list of 20 topics, 18 had seen positions converge but the gap did not narrow on the 19th — the special safeguard mechanism for developing countries.<sup>1</sup> I examine here the proposed SSM against the experience of the international community with other GATT/WTO safeguard provisions.

## **1. OBJECTIVES, PERSPECTIVE AND CONTENT OF THIS PAPER**

In this paper I will examine the proposed special safeguard mechanism for agriculture (SSM) against the experience of the international community with other GATT/WTO safeguard or flexibility provisions. My primary objectives are to identify what in the existing safeguard/flexibility provisions has made them useful, and what this tells us about how the SSM might be made useful.

As to perspective, while there has been considerable research on such instruments, virtually all of it views them as devices for creating protection rather than for defending the long-run viability of reforms.<sup>2</sup> I want to apply here a more positive perspective – how a safeguard can support policy managers in their objective of managing agricultural trade policy as a part of long-run program of modernization and reform.<sup>3</sup> This sense of ‘useful’ recognizes that reform is an inexact science; it also recognizes that the correct decision will sometimes be to impose a restriction.

The overall conclusion I reach is that the effectiveness of GATT/WTO safeguard or flexibility provisions to sustain long-run liberalization programs stems from their requiring objective, transparent and participatory national decisions on the application of new/exceptional import restrictions. Their usefulness does not stem from the ‘formulas’ they have provided, e.g., injury or injurious dumping.

Applying this perspective to the proposed SSM, it includes no procedural requirements; it defines by mathematical formula when a Member may impose a

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<sup>1</sup> Robert Wolfe (2009) documents that there had been almost no preparatory negotiation or discussion of SSM. The breakdown, in his interpretation, was less a matter of conflict of interest than a matter of Members having established no basis on which workings of alternative formulas or parameters might be evaluated, the interests of one Member weighed against the interests of another.

<sup>2</sup> Nelson (2006) lists more than 200 references, the preponderance of which take the negative perspective.

<sup>3</sup> A related methodological concern is to avoid the mercantilist perspective that tends to impose itself on any topic taken up in a trade negotiation. Discussion of SSM proposals suggests that some analysts find virtue in anything that justifies fewer restrictions, some find virtue in anything that justifies more.

new import restriction. Results reported here suggest that the principal impact of the formulas is to expand Members' scope for unilaterally imposing restrictions but that they provide a poor guide as to when it makes economic or political sense to do so. Simulations indicate that the formulas frequently prescribe action when it is not needed, and frequently fail to prescribe action when it is appropriate.

If the SSM discussion is about supporting members to make good policy decisions, then it should be about process that will help a government to reach a correct decision and to sustain that decision among its various constituencies. Judging from past experience, a key element will be to identify the domestic 'interested parties' affected by a decision to restrict or not to restrict imports, to give them voice in the decision.

If that discussion is about the SSG formulas or those proposed for the SSM, then it is about defining the scope of unilateral action that Members retain, not about when it makes sense to take – or not take – action.

As to how the discussion proceeds, Sections 2, 3 and 4 look into how GATT/WTO safeguard or flexibility provisions have functioned and evolved, the characteristics that made them supportive management tools. I examine in Section 5 the special safeguard provisions (SSG) of the Uruguay Round Agreement on Agriculture. It and the proposed SSM have similar structures; hence how the SSG has operated will provide valuable insight into how the SSM might operate. Sections 6 and 7 examine the proposed SSM. I pay particular attention to the mechanism as a decision mechanism; if the proposed 'triggers' will allow import restrictions when they are appropriate, not allow them when they are not. Section 8 looks briefly at interactions between the SSM and the current state of negotiations on tariff reductions, section 9 offers conclusions and comments.

## **2. FUNCTIONS OF A SAFEGUARD MECHANISM: FLEXIBILITY WITH DISCIPLINE – AND GUIDANCE TOWARD GOOD POLICY CHOICES**

Managing the trade policy dimensions of agricultural policy is a complex challenge for developing country leaders. On the one hand, integration into the international economy is a critical part of the reform and modernization that they want their agricultural sectors to achieve.<sup>4</sup> Such integration will provide export opportunities; it will also provide competitive discipline that spurs efficiency in

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<sup>4</sup> Zwain (2008) provides a useful reminder that improving the efficiency of the agricultural sector and creating alternative employment for resources whose comparative advantage lies elsewhere involves much more than the management of trade policies. Even where trade is concerned, reforms that improve domestic markets and provide better linkages to international markets through better transportation and better communication of price signals may be more important than the management of import policies – the subject of this paper.

domestic production and thus higher incomes. On the other hand, policy managers will be prudent at times to provide protection against short-run shocks so as to ensure that competitive producers survive over the long run. Temporary protection might be justified as well for uncompetitive producers whose livelihood depends on agriculture and for whom there are no immediate alternative sources of employment/income. Also entering into the equation are the interests of the non-agriculture poor, for whom higher food prices mean lower real income.

## **The roles of international trade agreements**

The longer-run benefits of commitment to a program of liberalization through negotiation and bound commitments are familiar. The mercantilist *quid pro quo* for domestic reforms – improved access to foreign markets – will help to provide alternative uses for domestic resources whose comparative advantage is not in agriculture. Moreover, such commitment to reform through international agreement will provide continuing pressure on the sector to reform as well as support achievement of longer-term objectives against the many pressures that will arise to go in other directions.

While the long-run objective implies a general momentum toward liberalization, natural events and shifts of agricultural policies in other countries imply that any country will face considerable short-run volatility in international markets. Thus international commitments to long-term reform usually include ‘safeguard’ provisions that provide flexibility to deal with shorter term events. Such provisions allow new trade restrictions but at the same time attempt to discipline against their overuse so that a longer-run momentum toward liberalization is maintained.

## **Dimensions of a safeguard/flexibility provision**

Membership in the WTO commits a government to use only approved instruments of trade control, principally tariffs; to apply them in a generally non-discriminatory manner and to subject them to a long-time process of binding and reduction through negotiation.<sup>5</sup> Safeguards, being a part of the overall agreement, reflect each Member’s overall and long-term commitment to liberalization. Flexibility in this context does not refer to the freedom a government would maintain by remaining outside the agreement or by not binding its tariff rates through the agreement. It refers to disciplined or guided flexibility intended to keep its application by each Member in line with the overall and long-run objectives implicit in membership.

I will review safeguard mechanisms from the perspectives of three characteristics: flexibility, discipline, and guidance toward good policy choices.

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<sup>5</sup> Hudec 1987, p. 133.

### Flexibility

Trade liberalization is not rocket science. There will be uncertainty as to the economic impact reforms will have and as to the intensity of the resistance that impacts might provoke. In the face of reaction that might disrupt the entire liberalization program, good policy becomes the pragmatic matter of managing pressures for exceptions so as to maintain a general momentum for liberalization and to strengthen the politics of avoiding rather than of imposing such restrictions in the future. The correct choice will sometimes be to impose an import restriction.

### Discipline

At the same time, a safeguard provision should provide discipline against overuse; discipline so that the possibility of introducing new trade restrictions is not so attractive that it overcomes the government's intention to maintain a long-run momentum toward liberalization. There should remain a general pressure toward not applying the measures that, in special circumstances, the safeguard provision allows. The occasional step back should not only preserve previous steps forward, it should strengthen the politics of taking more steps forward in the future.

### Policy guidance

Finally, a safeguard provision might be expected to do more than make pragmatic political sense. Beyond the matter of taking one step back in order to preserve two steps forward, economic science does recognize situations in which an import restriction might itself advance the national economic interest. The rhetoric of antidumping, for example, suggests that an antidumping action follows more or less the same economic logic as an anti-trust action. Interventions that neutralize 'distortions' (situations in which the market price of a product differs from its true economic cost) will serve the national economic interest in the long-run as well as in the short-run.

The meaning in practice of each of these criteria will be elaborated in the review of experience with GATT/WTO safeguard provisions.

### **3. GATT PROVISIONS THAT ALLOW NEW IMPORT RESTRICTIONS**

The General Agreement on Tariffs and Trade (GATT) is an agreement and the World Trade Organization an organization intended to promote the expansion of international trade. Even so, the GATT/WTO includes several provisions that explicitly acknowledge the rights that Member countries retain to impose new trade restrictions or to replace old ones. This section reviews use of such provisions.

As the review will show, integrated into the allowance of restrictive measures is a concern to discipline their use; to ensure that they do not become disguised forms of ordinary protection and that the overall impact of the agreement is liberalization. Analysis also indicates that usage is perhaps the only guide to the functions of these provisions; e.g., antidumping functions as a 'safeguard' rather than a discipline on uneconomic trade practice. It shows also that though the criteria for use of the various flexibility provisions appear to differ – safeguard, antidumping, balance of payments provisions – they are in practice quite fungible. Why one measure is used has been more a matter of political and administrative convenience than the economics of the particular situation. Analysis also shows that the administrative disciplines the GATT/WTO imposes – recognition of and participation of interested parties, public availability of information, publication of decisions and reasons for decisions – have been an important support for good policy management.

#### **Renegotiations and emergency actions**

In GATT's first decade the most prominent of the provisions that sanction new restrictions was Article XXVIII, which provided for renegotiation of any tariff reduction a participating country had made.<sup>6</sup> The 1947 GATT gave each country an automatic right to renegotiate any of its reductions after three years (Article XXVII) and, under 'sympathetic consideration' procedures, reductions could be renegotiated more quickly. As to discipline on the use of renegotiation, the process carries with it the requirement to compensate – in undoing a previous

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<sup>6</sup> A GATT tariff bargain is consummated by each participating country submitting a schedule of tariff rates, by tariff line, that it accepts as bound legal obligation. A WTO Member may unilaterally increase any applied tariff rate up to the bound rate or increase without limit the rate applied in any tariff line that is not bound. (Many developing country at the Uruguay Round bound their tariffs at ceiling rates somewhat above the rates they had applied since the liberalizations of the last quarter of the 20<sup>th</sup> century.). Once a tariff line is so bound, a country must cite 'permission' under a specific GATT/WTO provision to justify increasing the tariff rate above the bound rate or otherwise imposing a new restriction on that tariff line. A renegotiation is more precisely about increasing the level at which a country has bound its tariff rather than about undoing a tariff reduction it has agreed.

tariff reduction a country would be expected to offer exporters something equivalent on other tariff lines.<sup>7</sup>

Article XIX, titled 'Emergency Actions on Imports of Particular Products' but often referred to as the escape clause or the safeguard clause, provides a country quicker access to much the same renegotiation process. In instances of particularly troublesome increases of imports – that cause or threaten serious injury to domestic producers<sup>8</sup> – a country could introduce a new restriction, then afterwards negotiate a compensating agreement with its trading partners.<sup>9</sup>

### Reciprocity as discipline

GATT negotiators were aware that these mechanisms offered the potential to overcome the principal purpose of the agreement: a general reduction of trade barriers. There are consequently certain disciplines built into each mechanism, the basic discipline on new restrictions through renegotiation being reciprocity. A country seeking to increase a restriction was expected to offer compensating reductions on other products. If supplier countries did not consider these to be satisfactory, they could retaliate. i.e., increase their restrictions in a parallel manner.<sup>10</sup>

Figure 3.1 traces early usage of the different provisions. Within 15 years after the GATT first came into effect, every one of the 29 participating countries that had bound tariff reductions had undertaken at least one renegotiation—in total, 110 renegotiations, or almost four per country. These actions were in large part renegotiations under Article XXVIII, supplemented by emergency actions (restrict first, then negotiate compensation) under the procedures of Article XIX.<sup>11</sup>

Over time, the mix shifted toward a larger proportion of emergency actions. In use, Article XIX emergency actions and Article XXVIII renegotiations complemented each other. Nine of the fifteen pre-1962 Article XIX actions that were significant enough that the exporter insisted on compensation (or

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<sup>7</sup> The early GATT rounds were collections of bilateral negotiations, but tariff cuts had to be made on a most-favored-nation basis (i.e. applicable to imports from all GATT Members). A renegotiation was not with the entire Gatt membership but only with the country with whom that reduction was initially negotiated, plus any other countries enumerated by the GATT as 'principal suppliers'.

<sup>8</sup> The Uruguay Round Agreement on Safeguards (but not the initial GATT) requires a formal investigation and determination of injury.

<sup>9</sup> Though the GATT asked a country taking emergency action to consult with exporting countries beforehand, it allowed the action to come first in 'critical circumstances.' In practice, the action has come first most of the time.

<sup>10</sup> This ultimate discipline, retaliation, was itself subject to discipline. When the GATT was first agreed the trading system was in the shadow of the chain reaction of protection and retaliation that had severely restricted international trade between World Wars I and II. Hence the matter of retaliation was cushioned by several administrative steps intended to bring the countries involved to reach a mutually acceptable solution that would not start such a chain reaction.

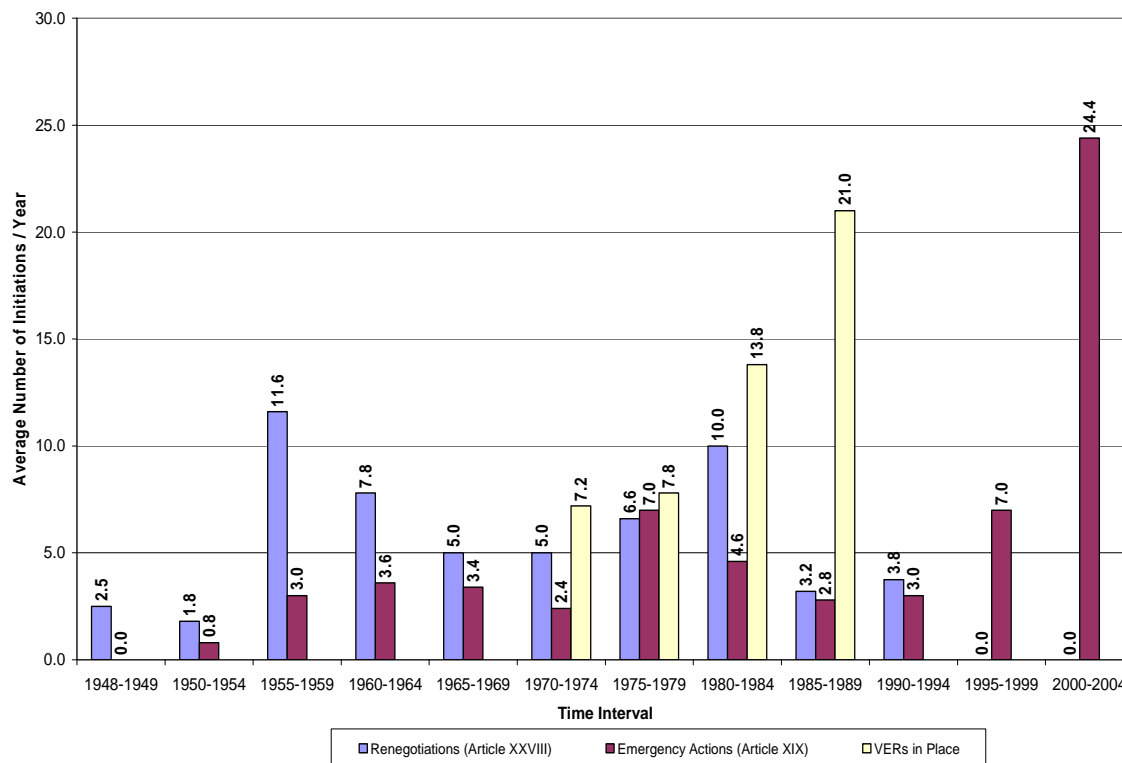
<sup>11</sup> GATT 1994, pp. 863-910.

threatened retaliation) were eventually resolved as Article XXVIII renegotiations. Article XXVIII renegotiations, in turn, were often folded into regular tariff negotiations.<sup>12</sup>

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<sup>12</sup> GATT 1994, pp. 477-516

**Figure 3.1**  
**RENEGOTIATIONS (GATT ARTICLE XXVIII), EMERGENCY ACTIONS (GATT ARTICLE XIX), AND**  
**VOLUNTARY EXPORT RESTRAINT AGREEMENTS (VERS), 1948–2004**



**Sources:** Amelia Porges, Petros C. Mavroidis, Friedl Weiss, *Analytical Index: Guide to GATT Law and Practice*, GATT, Geneva, Switzerland, 1994 (for actions under Articles XIX and XXVIII before 1995); The WTO Committee on Safeguards, *Annual Reports* (for safeguards after 1995); *The International Trade Environment, GATT—Report by the Director General 1989-1990*, GATT, Geneva, Switzerland, 1990, p. 21.

**Notes:** VERS for 1970–1989 do not include bilateral quantitative restrictions under the Multi-Fiber Agreement; data were not available for VERS before 1970 and during 1990–1994.



### Protection contingent on circumstances as discipline

In addition to the obligation to compensate and the ultimate threat of retaliation, Article XIX introduces a second source of discipline: conditions. Article XIX provides legal clearance only in instances where imports cause or threaten serious injury to domestic producers.

Some negotiators argued that the 'injury' criterion would provide little discipline. Import restrictions had been put in place to increase domestic production, removing them was indeed likely to displace it. Allowing new import restrictions when removal of old ones led to displacement of domestic production had the potential to undo a large part of the reductions. Negotiators consequently added the condition 'as a result of unforeseen developments';<sup>13</sup> so that the normal or expected results of a tariff reduction would not justify an increase.

### Guidance for good policy

Behind the inclusion of injury as a criterion for making an exception to a general policy of liberalization was a certain perception that the national economic interest would be advanced by applying this criterion. GATT Article XIX is almost word-for-word taken from the safeguard provision included in every pre-GATT trade agreement of the United States, and in US trade policy this safeguard clause was an expression of the 'scientific tariff' concept that for 150 years had dominated tariff thinking in the United States.<sup>14</sup> According to this thinking, the 'optimal' tariff rate on any product is one equal to the difference between the domestic and the foreign cost of production. In the US, safeguard investigations had replaced an older flexibility provision, 'Section 336.' Section 336 allowed the President to raise or to lower a tariff rate after an investigation by the US Tariff Commission to determine the domestic-foreign cost difference.<sup>15</sup> The early methodology for safeguard investigations was a close copy of the older Section 336 methodology. Non-injurious imports were, operationally speaking, imports that entered over a tariff equal to the difference between domestic and foreign costs.

Of course, modern economics does not recognize the cost-difference principle as identifying where a trade intervention would make economic sense.

## **Negotiated export restraints – reciprocity outside legal bounds**

By the mid 1970s, formal use of Article XIX and of the renegotiation process began to wane. Actions taken under the escape clause tended to involve

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<sup>13</sup> XIX.1(a)

<sup>14</sup> Two good sources on historical US tariff policy and thinking are Stanwood (1903) and Hull (1946).

<sup>15</sup> Over the instrument's lifetime, 1931-1941, Section 336 investigations led to 29 tariff increases, 25 reductions and 47 decisions not to change the rate. (Finger and Harrison. 1996, 204).

negligible amounts of world trade in relatively minor product categories.<sup>16</sup> Big problems such as textile and apparel imports were handled another way, through the negotiation of 'voluntary' export restraint agreements (VERs). The various textile agreements, beginning in 1962, provided GATT sanction to VERs on textiles and apparel. The same method, 'negotiated' export restraints or VERs, were used by the developed economies to control troublesome imports into several other important sectors, such as steel in the United States and automobiles in the European Union.

Except for those especially sanctioned by the textile arrangements, VERs were clearly GATT-illegal.<sup>17</sup> However, while VERs violated GATT legalisms, they accorded well with its ethic of reciprocity and their negotiation controlled for the possibility of chain reaction of import restrictions from one country to another, as had been disastrous in the 1930s.

The reality of power politics was at play, but compensation was involved. Reduced export volumes were compensated by higher prices, the result being often a net gain for exporters.<sup>18</sup> In some instances the quid pro quo was foreign aid or some other non-trade consideration.

Though VERs were clearly GATT-illegal, they prevailed through the 1970s and the 1980s as the predominant mechanism for managing troublesome imports. (Figure 3.1) Their use came to an end with the Uruguay Round Agreement on Safeguards. Its Article 11 includes an explicit prohibition and a procedure for notification and phasing out of those in place. One might speculate that the reasons behind this elimination included:

- The increasing weight of developing countries in world trade and their increasingly active role in the GATT system
- The growing realization in developed economies that a VER was a costly form of protection<sup>19</sup>
- The long-term legal pressure of the GATT rules
- The availability of an attractive, GATT-legal alternative, antidumping.

## **Antidumping ascends**

Antidumping was a minor instrument when the GATT was negotiated, and provision for allowing antidumping measures was included with little controversy. In 1958, when the GATT Contracting Parties first canvassed themselves about

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<sup>16</sup> 1980 statistics show that actions taken under Gatt Article xix covered imports valued at US\$ 1.6 billion, while total world trade was at the same time valued at US\$ 2,000 billion (Sampson, 1987, p. 145).

<sup>17</sup> Gatt, 1994, p. 494.

<sup>18</sup> Had imports been restricted to the same volume by a tariff, the scarcity value of the restriction would have been collected by the importing country.

<sup>19</sup> For example, Hufbauer and Elliott (1994) found that of the welfare loss placed on the U.S. economy from all forms of protection in place in the early 1990s, over 83 percent of that loss came from VERs.

the use of antidumping measures, the resulting tally showed only 37 antidumping decrees in force across all GATT countries, 21 of those in South Africa (GATT, 1958, p. 14).

Since 1995, when the Uruguay Round agreements came into force, use of antidumping has dominated use of other provisions that sanction import restrictions: 2049 antidumping measures as compared with 83 safeguard measures, 119 countervailing duty measures and no renegotiations reported by the WTO Secretariat.<sup>20</sup> Since the Uruguay Round agreements are in place 91 percent of the applications of these traditional GATT flexibility provisions have been antidumping measures.

While in GATT's early decades renegotiation of previously agreed tariff bindings was the most frequently used flexibility provision, the ascendance of antidumping demonstrates that as the GATT/WTO system became more juridical, adjustments previously treated as negotiations were increasingly taken up as evaluations against specified criteria.

These evaluations are unilateral in that they are conducted by national authorities, but they retain significant collective or international dimensions. Evaluation is against a collectively agreed 'just cause' (e.g., injurious dumping) and it follows collectively agreed procedures. National investigations must recognize exporters and governments of exporting countries as interested parties and these investigations are under continuous international scrutiny. Antidumping measures have been the subject of 60 of the 368 cases<sup>21</sup> taken up in the WTO dispute settlement process.

### Discipline

Though the number of antidumping measures applied has increased, the record indicates that there is a good deal of discipline in the GATT/WTO system. Finger, Nelson and Hall (1982) found that over 1975-79, only 2 percent of US imports were covered by either affirmative antidumping or countervailing duty cases; 4 percent by affirmative safeguard (Article XIX) cases. Galloway, Bloningen and Flynn (1999) found that in the mid 1990s the percentage for the total of all three of these trade remedies was still about 5 percent. Egger and Nelson (2007) looked at the impact of antidumping world-wide, estimated that over the 40 years 1960-2000 antidumping had reduced world export volume by no more than 2 percent.

One discipline on antidumping is cost; the cost to an industry of legal representation and of supplying the information needed to support a petition along with the cost to a government of conducting an investigation.<sup>22</sup> Another

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<sup>20</sup> These data cover 1 January 1995 through 31 December 2007.

<sup>21</sup> As of 06 January 2009.

<sup>22</sup> Finger – Nogués (2006) look into this matter. Cost was an important consideration for industries in Latin America, as well as for governments. Casual information in Washington, DC,

discipline is reciprocity. Though WTO rules do not require compensation when an antidumping duty is imposed, the threat of reciprocal antidumping action has become an effective discipline. Though there was a surge of antidumping users and actions soon after the Uruguay Round, the number of cases subsequently declined. Several studies have found that the threat of retaliation provides considerable discipline, hence the decline of the number of antidumping actions once a large number of WTO Members had armed themselves. Blonigen and Bown (2003) summarize these arguments and evidence. Eichengreen and Van der Ven (1985) document how threatened retaliation by the EEC caused the US government to pull back from taking antidumping action against imports of automobiles from Europe.

#### An effective pressure valve

Antidumping has proven to be an effective pressure valve. It allows domestic interests to complain about the unfairness of foreign competition and provides a detailed process for investigation of such concerns. At the same time, antidumping measures have been minor in comparison with the liberalization the global economy has witnessed.

#### Guidance for good policy

Antidumping is perhaps the classic example of a pragmatically successful flexibility instrument with pretensions – but no more than pretensions – to a real economic rationale. Functionally speaking however, antidumping's contribution is that it has provided needed political flexibility. The increasing technical complexity of its criteria act more as discipline against overuse than as determinants of when an intervention would be a good decision by the government.

### **Developing country usage of GATT balance of payments provisions**

The GATT system imposes no restrictions on unilateral increases of unbound tariff rates and until the Uruguay Round developing countries had notified bindings on few of their tariff lines.<sup>23</sup> They therefore did not need the legalities of renegotiations, safeguards or antidumping in order to adjust tariff rates.

GATT Article XI provides a general prohibition against quantitative restrictions, hence any application of such a restriction must find legal sanction in other provisions of the agreement. Article XII allows quantitative restrictions as measures to guard the balance of payments, and in GATT's earlier decades was

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suggests that the legal costs of pursuing an antidumping case are well over one million dollars, for each plaintiff and each respondent.

<sup>23</sup> Finger, Ingco and Reincke (1996, p. 50) report that only 30 percent of developing country imports were in bound tariff lines. The figure is likely an overstatement. It is based on data submitted to the GATT by countries that are active in GATT affairs.

frequently cited by developed countries. More relevant for developing countries however is Article XVIII. Provisions under Article XVIII B allow developing countries to impose quantitative restrictions to address balance of payments disequilibria and to maintain reserves adequate for development. Section C of the same article allows protection to infant industries, or in GATT language, measures to promote the establishment of particular industries in the context of a development program. In practice, the balance-of-payments exception has been invoked far more often than the infant industry exception: almost 3,500 restrictions under the balance of payments exception compared with less than 100 under the infant industry exception (Table 3.1).

Table 3.1: Number of CCCN items notified under each GATT article by developing countries 1974-87

Article cited as justification	Number
VIII: Fees and formalities connected with importation and exportation	316
XI.2: Restrictions to apply standards or classifications, manage short supplies or complement agricultural or fisheries support programs	108
XVIII: State trading enterprises	15
XVIII B: Balance of payments measures for developing countries	3,437
XVIII C: Industrial development	91
XX: General exceptions	131
XXI: National security	4

Source: OECD 1992, p. 100.

The paucity of actions notified under the infant industry provision should not be taken as an indication that developing country governments did not apply trade restrictions for this purpose. Anjaria (1987, p. 671) concludes that the explanation for the larger number of measures notified under this provision is its easier procedural requirements. Infant industry measures (Article XVIII C) require prior notification to the GATT, and compensation for affected exporters. Article XVIII C also provides that the GATT CONTRACTING PARTIES can disapprove such an action and can authorize retaliation if a not-approved action is taken. Balance of payments measures (Article XVIII B) are not subject to these restraints, nor are there time limits on how long they may be in place. The facts of usage suggest that measures notified under Article XVIII B were often intended to support particular industries rather than to restrict imports generally. Anjaria reports (1987, p. 680) that for each country the aggregate of measures notified under XVIII B was made up of many different applications, and that for three-fourths of the developing countries that notified measures the aggregate covered less than half of the import categories.

### Rationale

When the GATT was adopted the widely believed Prebisch thesis cautioned that commodity earnings would inexorably decline and industrialization would require vast imports of capital goods. Thus developing countries would continuously suffer balance of payments problems.<sup>24</sup> Reflecting this thinking, GATT soon evolved a tolerance for developing country trade restrictions.<sup>25</sup>

### Discipline

Again we find reciprocity to be the effective discipline. By the 1970s a number of developing countries had become important in world trade, both as potential export markets and as suppliers of imports that increasingly prompted developed country industries to call for protection. The intensified commercial presence of developing countries provoked industrial countries to press for market-opening actions by developing countries. Pressure was applied both through the GATT Balance of Payments Committee and the Trade Committee of the OECD. One of the focal points of this pressure was reduced use by developing countries of Article XVIII B restrictions.

The Uruguay Round agreements include an understanding on balance of payments provisions intended to reduce overall use as well as to shift usage to tariffs instead of quantitative restrictions. Under pressure of this agreement, developing countries have drastically reduced the number of measures justified under GATT's balance of payments provision. As Table 3.2 documents,

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<sup>24</sup> Little (1982) is a good source on development thinking of that era.

<sup>25</sup> Hudec (1987) documents and analyzes this evolution.

antidumping is now the instrument of choice of developing countries as well as of developed.<sup>26</sup>

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<sup>26</sup> WTO Balance of Payments Committee reports for 1995 and 1996 report balance of payments measures in place in 18 Members. Subsequent Reports indicate that all such measures have been removed.



Table 3.2: Numbers of Antidumping, Article XIX Safeguard and Countervailing Duty Measures Notified by WTO Members; 1995-2007

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1995-2007
<u>All Members*</u>														
Antidumping Measures	119	92	125	170	185	227	167	214	220	152	132	137	109	2049
Safeguard Measures	0	1	3	5	5	7	9	14	15	6	6	7	5	83
Countervailing duty Measures	19	5	3	6	14	19	14	14	6	8	4	3	4	119
<u>Developing Members</u>														
Antidumping Measures	59	52	74	101	127	129	83	151	189	114	82	114	83	1358
Safeguard Measures	0	0	3	4	2	5	7	8	4	4	5	7	5	54
Countervailing duty Measures	14	2	0	2	0	7	4	2	1	4	3	0	1	40

Source: WTO website

Note 1: \* Over 1995-2007 only four percent of total measures involved agricultural products, HS Categories I-II.

Note 2: WTO Balance of Payments Committee Reports (WT/BOP/R/10 and WT/BOP/R/19) for 1995 and 1996 report balance of payments measures in place in 18 Members. Subsequent Reports indicate that all such measures have been removed.

## 4. Lessons from liberalization

A recent group of studies looked particularly at how developing country policy managers used safeguards and antidumping as part of their countries' liberalization and reform programs. The studies, covering Argentina, Brazil, Chile, Columbia, Costa Rica, Mexico and Peru, are summarized in Finger-Nogués (2008).<sup>27</sup> Rather than repeating that summary here, I will report only conclusions/lessons from the study, these to be applied below to the analysis of the proposed SSM.

The GATT/WTO system of bindings and rules was critical to the success of the liberalization programs.

In their economic histories, these countries had passed through several cycles of protection and openness. Many different import control instruments were in use, among them tariffs, surcharges, benchmark customs values, enterprise-specific limits on foreign purchases, and import prohibitions. Application of restrictions was done through processes that allowed wide discretion to government officials, with decisions often made at the sectoral level. Safeguards and antidumping – as GATT and WTO rules define them – were rarely used. With almost all tariff lines unbound through the GATT/WTO, the legal sanction that use of such instruments would have provided was not needed.

The binding of tariff rates in the Uruguay Round meant that only GATT/WTO mechanisms could be used to apply new restrictions. This provided the basis in domestic politics for governments to eliminate the previous mechanisms and to maintain control over the management of new pressures for protection in agencies with economy-wide responsibilities and accountabilities.

The motivation for reform was each government's perception that reform and liberalization would benefit the people of the country.

The mercantilist idea that liberalization was the 'cost' of advancing a country's export interests played a minimal role. The Asian example – growth and productivity through integration into the global economy – had considerable influence. The officials who led the reforms saw the objective as achieving world levels of productivity by becoming a part of the global economy rather than by simply boosting their exports. To them, GATT/WTO mechanisms were more about helping to manage reform than about forcing it.<sup>28</sup>

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<sup>27</sup> The country studies are also available as World Bank working papers, Finger – Nogués 2008 provides references. The summary and the country studies were also published as Finger – Nogués 2006.

<sup>28</sup> Among these seven countries, Mexico's negotiation of a free trade agreement with Canada and the United States was the most prominent use of trade negotiations as a vehicle (though not necessarily a motive) for trade reform.

Creating safeguard and antidumping mechanisms was often part of the bargain to gain industry acceptance of reform.

Acceptance by industry of the idea that they could not only survive but prosper under the stimulus of international competition was paired with the promise that they would be protected from abnormal or unfair competition. This was a political bargain, expressed in speeches and other such statements, often with reference to GATT/WTO rules and mechanisms as the standard for distinguishing what industry would and would not be expected to face up to.

The administrative dimensions of GATT/WTO rules for trade remedies supported valuable managerial reforms.

One of the objectives of the officials who led the reforms was to change the culture of policy management; from one based on relationships to one based on the facts of economic potential. This relates particularly to such GATT/WTO rules as those on the recognition of and participation by interested parties, for open procedures according to previously announced processes, for publication of decisions and of reasons for decisions. Notification requirements also proved valuable, they proved the basis for establishing an archive that allowed for continuing analysis of the impact of measures put in place. The collection of the data and the keeping of such records was a matter of changing management culture as well as of allocating the necessary resources.

The economics of the GATT/WTO flexibility provisions proved an unconstructive guide to managing the national economic interest.

Particularly in creating safeguard mechanisms these governments attempted to create decision mechanisms that balanced the various domestic interests at play. Injury, the interests of displaced domestic production, was a basic element. At the same time, the new safeguards mechanisms asked protection seekers to submit a recovery plan that would demonstrate that the industry asking relief would over the long term pull its own weight – not be a long-term burden on the rest of the economy. Several of the governments studied provided also for a government agency to prepare a quantitative analysis of the impact of the requested protection on users of imported products, and made that information a part of the information base for a decision.<sup>29</sup> Peru required the petitioner to provide such analysis. Chile and Costa Rica paid particular attention to how restricting imports would affect the competitiveness of the local industry.

The managerial logic of including such factors in the decision process was first that it made economic sense to do so, and second, that having such information on the record would provide political support in those cases when the government concluded that a restrictive action would not be wise.

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<sup>29</sup> GATT/WTO rules require an investigation and determination of injury before a safeguard or antidumping measure may be applied. A positive finding on injury does not however mandate that a restrictive measure be applied; a government may take into consideration any other factors it considers relevant.

The fact that the WTO rules did not mandate consideration of such factors provided eventually leverage against reform. Petitioners who were turned down on the basis of long-run viability or cost to user industries complained that the government was being more rigorous than the GATT/WTO required; that they were being subjected to a higher standard that was applied in the industrial countries who were the inventors of safeguards and antidumping. Given that governments, in winning industry's acceptance of reform programs, had referred to GATT/WTO rules as the relevant criteria, these complaints had considerable political bite.

The Mexican government was subject to similar criticism when it attempted to base dumping investigations on operational techniques to determine the prevailing international price in competitive markets. WTO rules sanction constructed cost formulas that allow generous overstatement of what normal business accounting practices would determine. Under criticism from protection seekers and from international antidumping professionals, the Mexican government was forced to abandon a disciplined measure of competitive price that it had concluded would better serve the Mexican national economic interest. The generous 'space' provided by GATT/WTO safeguard and antidumping rules proved to support resistance for reform rather than to support the policy leaders' case for it.

GATT/WTO rules earn a high mark on support for good process, a lower mark on support for good criteria.

Liberalization at times involved considerable short-term use of flexibilities.

Chile for one year notified more countervailing duty investigations than any other country. Mexico and Argentina, for short periods, initiated large numbers of antidumping investigations. These high rates of usage took place in years of extraordinary economic stress, often involving overvalued exchange rates. When crises had passed and the exchange rate adjusted, usage of the flexibility provisions fell back to levels comparable with those of other WTO Members.

Build all of the interests that are relevant into the decision process. This is perhaps the overall lesson from the study. Adopting a technical approach to safeguard decisions was a key part of changing the decision culture, and GATT/WTO procedural rules were strongly supportive of adopting that approach. As noted above, when the GATT/WTO rules mandated a technical consideration only of the arguments for protection, they tended to support resistance to reform. Moreover, they compromised the reformers' confidence in a technical approach and thus their resolve to move trade policy decision-making away from 'politics as usual.' GATT/WTO guidelines should do more than allow good economics, they should support it.

## 5. SPECIAL AGRICULTURAL SAFEGUARDS (SSG)

The Uruguay Round agreements Agreement on Agriculture (AoA) provide for a 'special safeguard'<sup>30</sup> (SSG) that allows the imposition of an additional import duty in case of an import surge (volume trigger) or when the price of an import shipment falls markedly below historical prices (price trigger).

The SSG is intended nominally to deal with problems liberalization of agriculture might create;<sup>31</sup> the SSG provisions to 'remain in force for the duration of the reform process,'<sup>32</sup> but the agreement provides no end date for the reform process. Legally speaking, the SSG mechanism is in place until members, by formal agreement, end it.<sup>33</sup>

The provisions were agreed in conjunction with tariffication, and recourse to SSG is limited to those countries that undertook tariffication in line with Uruguay Round modalities and who, in their schedules, marked tariff lines on which each reserved the right to apply SSG measures. Thirty-nine Members, 9 developed (counting the EC-15 as 1), 24 developing and 6 transition economies, reserved that right.<sup>34</sup> (The 6 transition economies have since become Member States of the EC-27.) The share of agricultural tariff lines so reserved ranged from 66 percent for Poland to 1 percent for Indonesia.<sup>35</sup> Many developing Members tariffied by adopting ceiling bindings and are thus not eligible to apply SSG measures, some who did designate products as SSG-eligible complain that the complexity of the formulas and the data requirements make the SSG system difficult to use. For whatever reason, few developing Members are in the list of users provided in Annex 1.

I review briefly in this section the design and application of the SSG system, Annex 1 provides details.

### Properties of the SSG

The price trigger allows every import shipment to be screened against previously determined and posted trigger prices. Major users of the system (e.g., the EEC the Rep. of Korea, the United States) posted trigger prices in 1995, when the

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<sup>30</sup> Agreement on Agriculture, Article 5, titled "Special Safeguard Provisions."

<sup>31</sup> Article 5.9 specifies that the SSG provisions 'shall remain in force for the duration of the reform process as determined under Article 20.' Article 20 notes agreement to continue the negotiating process, but provides no end date for 'the reform process.'

<sup>32</sup> AoA Article 5.9

<sup>33</sup> The December agriculture Chairs paper (WTO 2008b, paragraphs 126, 127) calls for elimination of developed Member's application within 7 years of entry into force of a Doha Round agreement, for tightened limits on use by developing Members.

<sup>34</sup> WTO document G/AG/NG/S/9 Table 2.

<sup>35</sup> WTO document G/AG/NG/S/9 Table 2.

Uruguay Round agreements came into effect.<sup>36</sup> Because the trigger prices are averages for 1986-88, they need not be revised year-by-year. Any exporter, aware that an additional duty will be added if her price is below that posted price, has therefore the incentive to price at that level. The price-trigger system can function thus as a minimum price system.

As to inference that might be drawn from research on similar economic instruments, the behavior of exporters whose products are under antidumping order provides insight into what the effect of the published trigger prices might be. (They face the similar choice between pricing at the 'no dumping' level or having an antidumping duty increase their delivered price by the same amount.) Blonigen and Park (2004) found that exporters under antidumping order do typically raise prices so as to avoid paying antidumping duties.<sup>37</sup>

The volume trigger functions as a second stage tariff-rate quota (TRQ). The volume trigger allows a Member to screen each year's imports against the average of imports over the previous three years. Once the trigger is reached (a certain percentage over the three year average) the Member is clear to add an additional duty – above the bound duty rate. The stages of tariff application are thus the following. (1) Up to the TRQ volume, imports would enter at a low or zero rate. (2) Once the TRQ volume of imports is reached, the ordinary duty may be applied. (3) Once the volume trigger is reached the ordinary duty plus the SSG additional duty may be applied.

Procedural requirements are minimal. The AoA obligates Members to operate SSG 'in a transparent manner' and to 'afford any interested Members the opportunity to consult with it in respect of the conditions of application of such action.'<sup>38</sup> It provides however no specifications on recognition of interested parties nor on procedure. Notification requirements provide minimal information on impact. The period over which a product was subject to SSG action must be notified, but Members are not required to notify the amounts of imports on which additional duties were levied nor the amounts of these additional duties. An example of the ambiguity of the information that satisfies the AoA's notification requirements is the content of EEC notifications. Year-by-year the EEC notifies the tariff lines for which 'the volume-based] system has been made operational' and year-by-year the EEC notifies that 'volume-based action has not been invoked.'

The limits on application of SSG measures are entirely technical: only on tariff lines previously marked, only if the invoice price of a shipment is below the posted trigger prices or the volume in a year exceeds the trigger level based on previous years' imports. Multilateral oversight is the same as oversight for

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<sup>36</sup> Chinese Taipei acceded to the WTO on 1 April 2002. On 2 April 2002 Chinese Taipei notified upfront trigger prices on 77 tariff lines, volume-based measures on 5 tariff lines.

<sup>37</sup> Another alternative, pointed out by Will Martin, is over-invoicing.

<sup>38</sup> AoA Article 5.7.

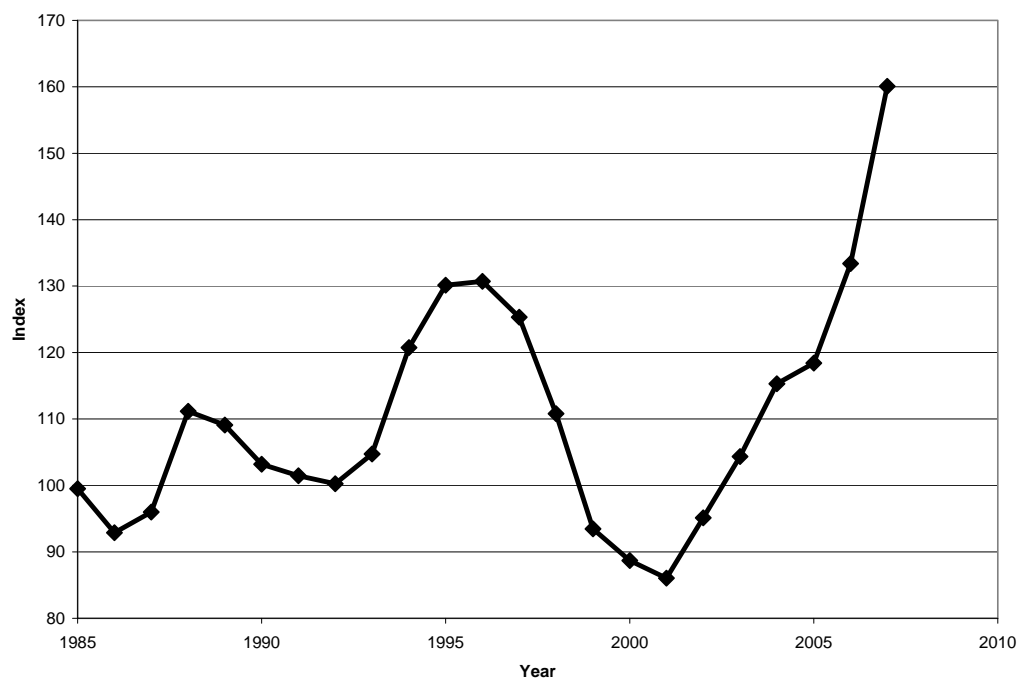
observance of bound rates: did the rate applied fall within the country's bindings; those bindings appropriately calculated to take into account the trigger formulas? In comparison with the other safeguard provisions in the GATT/WTO and their tradition of use, the SSG is a technical detail of tariff bindings rather than a safeguard or flexibility provision.

### **Application of measures**

Over the life of the SSG mechanism, agricultural prices have been generally above their level in the 1986-88 base period for trigger prices (Figure 5.1) and relatively few SSG measures have been notified. Judging from notifications to the WTO, Members have applied SSG measures to few of the tariff lines on which they reserved the right to do so, and even on these tariff lines to a small percentage of shipments. Usage has tended to be for extended periods of time; many of the products protected by SSG measures have been under such protection for almost all of the years the mechanism has been in place. One might have expected more price-based measures when agricultural prices were lower, but no such pattern appears in the data.

The SSG has functioned not as an allowance for occasional response to unusual situations but as an expansion of the limits a Member has accepted through its tariff bindings. Annex 1 provides details of SSG measures Members have applied.

Figure 5.1: Index of global prices of agricultural products, 1986-88=100



Source: World Bank Development Prospects Group web data.



## 6. SPECIAL SAFEGUARDS (SSM) – THE PROPOSALS

Several factors lie behind the Doha Round's consideration of a new Special Safeguard Mechanism (SSM). One of these was developed countries pressure for increased access to developing country markets as quid pro quo for developed country concessions on agriculture and on manufactures. Significant reductions of developing country bound rates would be required, developed countries insisted, because developing countries' bound rates were on average higher than those of developed countries, and much higher than their applied rates. (Table 6-1) Developing countries, on the other hand, had experienced significant increases of agricultural imports over the 1990s and into the 21<sup>st</sup> century.<sup>39</sup> They insisted that they would need a safeguard mechanism to help with the adjustment to lower tariff rates.

In the background was the continuing concern to pay particular attention to issues of concern to developing countries, this signaled by the Members having accepted the label "Doha Development Agenda" for the work program.

Table 6-1: Average post Uruguay Round applied and bound tariff rates on agricultural products; ad valorem equivalents

Country group	Applied	Bound
High income countries	15.0	41.9
Developing countries except LDC	13.4	53.9
Least developed countries	12.5	94.1

Source: Martin and Mattoo (2008, 5)

A possible alternative to creating a second agricultural safeguard was that developing countries obtain access to the SSG by, say, allowing a new period for notification of the tariff lines on which Members reserve SSG application. This alternative however attracted little support. There were complaints that the SSG's complex formulas were difficult to apply and that the 1986-88 base for price triggers was increasingly out of date. Furthermore, a sense of fairness suggested that while the developed countries had had more or less exclusive access to the SSG during their period of adjustment, developing countries should likewise have an exclusive instrument during theirs.

### The proposals

The major proposals tabled have been those of the draft agricultural modalities working document for the July 2008 WTO meetings, the December 2008 high-

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<sup>39</sup> FAO 2003 and Jales 2005 and references cited in these papers.

level WTO meeting that did not take place<sup>40</sup> ('Draft Modalities') and of the G-33.<sup>41</sup> The G-33 proposal accepts more or less the structure of the Draft Modalities, differences are mainly over the parameters. While application of additional duties under the SSG is limited to tariff lines that were tariffed and marked in a Member's schedule, the SSM would have no a priori product limitations.<sup>42</sup> A basic limitation is that pre Doha Round rates will be a ceiling – the normal duty plus the SSM duty cannot exceed the pre Doha Round bound rate.<sup>43</sup> The major remaining differences on parameters are on those that define the extent of exceptions to this limit.

#### Volume trigger

The SSM volume trigger would authorize an additional duty if in any year the volume of imports exceeds (by a certain percentage) the average volume over the previous three years.<sup>44</sup> The schedule below gives the amounts of the additional duty:

Volume of Imports relative to the previous three year average (percent)	Allowed increase of tariff rate: the higher of
>110; ≤ 115	25 per cent of the current bound tariff or 25 percentage points
>115; ≤ 135	40 per cent of the current bound tariff or 40 percentage points
>135	50 per cent of the current bound tariff or 50 percentage points

At any time in a year that the volume quota was reached, the SSM duty could be applied for the remainder of the year.

Draft Modalities and G-33 do not differ on these parameters. However, a notable difference is that Draft Modalities would limit the volume calculation to MFN imports, the application of the remedy to MFN imports.<sup>45</sup> G-33 would include preferential trade in both.

<sup>40</sup> WTO 2008a and 2008b. The paragraphs on the SSM are identical in the July and December modalities papers, TN/AG/W/4/Rev.3 and TN/AG/W/4/Rev.4. There is however a second December modalities paper, TN/AG/W/7, that deals with certain dimensions of the SSM, particularly with the pre-Doha bound tariff as the upper limit and with the treatment of seasonal products. These differences will be taken up later in the section.

<sup>41</sup> G-33, Africa Group and ACPs 2008.

<sup>42</sup> WTO 2008b, paragraph 132.

<sup>43</sup> WTO 2008b, paragraph 142.

<sup>44</sup> Each Member would specify the calendar, fiscal or marketing year (12-month period) over which it would administer the volume-based SSM.

<sup>45</sup> WTO 2008b, paragraph 138. The paragraphs on the SSM are identical in the July and December modalities papers, TN/AG/W/4/Rev.3 and TN/AG/W/4/Rev.4. There is however a second December modalities paper, TN/AG/W/7, that deals with certain dimensions of the SSM,

Draft Modalities propose that volume-based measures be limited in duration to a maximum of 12 months, or for a seasonal product the length of the marketing season (maximum 6 months). Reapplication would require a new trigger calculation, but Draft Modalities add the limit 'no product shall be subject to the volume-based SSM consecutively for more than two periods and where such consecutive application has occurred this may not be resorted to again before the elapse of a further two consecutive periods..' (paragraph 140) G-33 would not impose the two-year limit. Determining the trigger level for a year immediately after one in which an SSM measure was applied follows the standard formula; i.e., the average over the three previous years, including the one in which the SSM measure was in place. However, where this would have the effect of lowering the three year rolling average below the level which triggered the SSM in the initial period, the trigger level for the initial period will apply.<sup>46</sup>

### Price trigger

A price-based SSM measure may be applied to any import shipment whose price is below a trigger price. The trigger price will be equal to 85 percent of the reference price, the reference 'price' being the average of monthly MFN-sourced import unit-values for that product for the most recent three-year period for which data are available. (WTO 2008b, paragraph 135)

Draft modalities require that '[t]he trigger price shall be publicly disclosed and available to the extent necessary to allow other Members to assess the additional duty that may be levied.' (WTO 2008b, paragraph 135, footnote 50) This parallels the information requirement for the SSG. It does not specify how far in advance of application trigger prices must be 'publicly disclosed,' nor does it require that they be notified to the WTO. A country might however post up-front trigger prices, as did several Members under the SSG, and operate in effect a minimum price system. As to what SSG experience has been, other than the up-front postings of SSG trigger prices taken up in the previous section, the first notification to the WTO of SSG trigger prices has been as part of after-the-fact notification of SSG measures applied.

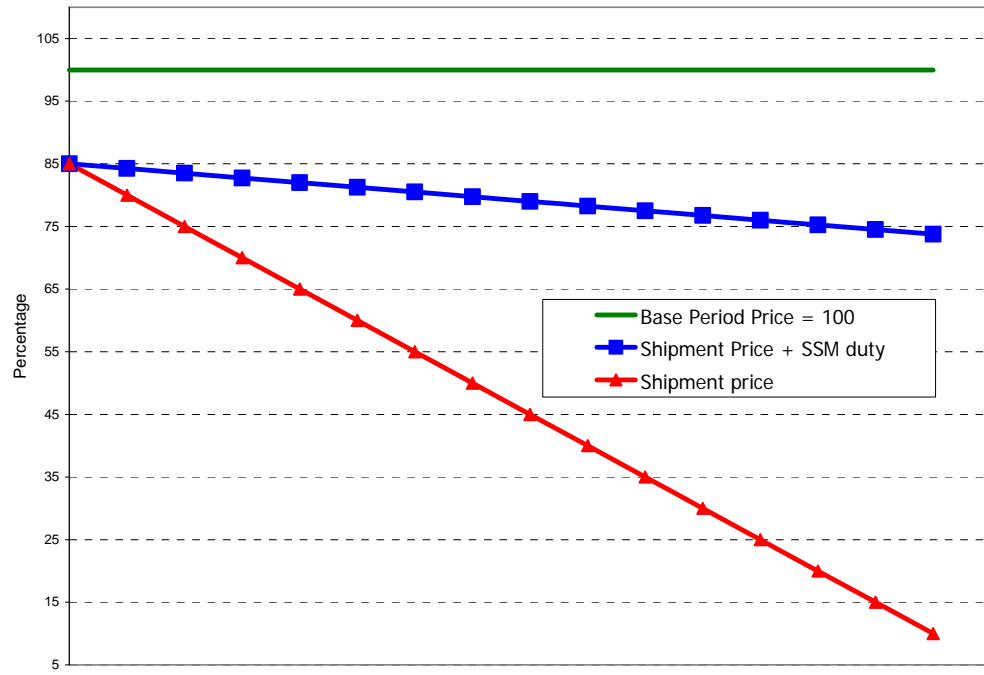
Draft Modalities propose that the SSM duty be limited to 85 percent of the difference between the shipment price and the trigger price. [E.g., if the reference price = 100, the trigger price is then 85. If the price of a shipment was 75, the additional duty would be  $0.85 \times (85 - 75) = 8.5$ . The 'normal' duty would also be applied.] Figure 6.1 illustrates how the delivered price (shipment price plus additional duty) would vary as the shipment price fell.

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particularly with the pre-Doha bound tariff as the upper limit and with the treatment of seasonal products. These differences will be taken up later in the section.

<sup>46</sup> WTO 2008b, paragraph 140.

Figure 6.1: Impact of SSM P-trigger duty on import price, Dec. 2008 modalities



The G-33 statement proposes that the trigger price be 90 percent of the reference price, the allowed additional duty be '100 percent compensation of the price difference.'<sup>47</sup> Following the nomenclature of the Draft Modalities document, this would mean 100 percent of the difference between the trigger price and the shipment price.

Again parallel to the SSG, any Member taking an SSM action must notify the WTO, indicating the tariff lines affected by the SSM duty 'as far in advance as may be practicable or, where this is not possible, no later than 15 days after the implementation of such action.' The applying member must also provide interested Members 'the opportunity to consult with it in respect of the conditions of application of such action.' (WTO 2008b, paragraph 141)

#### Pre-Doha bound rates as limits

The Draft Modalities would impose pre Doha Round Agreement bound rates as an upper limit on duties that might be applied – on the sum of the post-Doha bound rate and the SSM additional duty. Exceptions would be allowed, but Members have expressed significant disagreements on the parameters. Proposals on the table have two basic parameters: (a) the number of products on which the pre-Doha Agreement bound rate could be exceeded by the ordinary duty plus the SSM additional duty and (b) the size of the SSM duty, based on the then current (i.e., post Doha Agreement) bound rate:

Group	Draft Modalities (Dec 2008) <sup>a</sup>	G-33 <sup>b</sup>
Least developed countries	(a) no limit on how many products (b) the larger of 40 percent or 40 percentage points ad valorem	(a) no limit on how many products (b) the larger of 100 percent or 100 percentage points ad valorem
Small Vulnerable Economies	(a) in any given period, maximum of [10-15] per cent of tariff lines (b) the larger of 20 percent or 20 percentage points ad valorem	(a) in any given period, maximum of 30 per cent of tariff lines (b) the larger of 75 percent or 75 percentage points ad valorem
Other Developing Countries	(a) in any given period, maximum of [2-6] HS 6-digit products, each entailing no more than [4-8] tariff lines (b) the larger of 15 percent or 15 percentage points ad valorem, not permissible for two consecutive periods	(a) in any given period, maximum of 7 per cent of tariff lines (b) the larger of 30 percent or 30 percentage points ad valorem

<sup>47</sup> G-33 et al 2008, paragraphs 11 and 12, and comments reported below in other sources.

Notes: a. WTO 2008c; b. G-33 2008.

## **7. SPECIAL SAFEGUARDS (SSM) AS POLICY DECISION RULES**

From the perspective of developing countries' interests, an SSM or any other trade policy mechanism should not be judged by the frequency with which it would allow import restrictions. It should be judged by how effectively it distinguished instances in which restriction was the better choice from instances in which to not restrict was the choice that better advanced the developing country's interests.

The first paragraphs of this paper reminded the reader that imposing an import restriction sometimes can be the correct choice. To not restrict might force an unnecessary burden on resources whose long-run comparative advantage does lie in agriculture, or force other resources out more rapidly than alternative income-earning possibilities develop.

On the side of not acting is the need to maintain constructive pressure on the sector to modernize. In developing countries as well as in developed countries the cost of agricultural support is considerable. For example, the 2008 WTO Trade Policy Review for Korea reports that 'Korea's net agricultural support exceeds the sector's GDP contribution (3.3% versus 3.2% in 2006).'<sup>48</sup>

Also on this side of the issue are the interests of the food consumers and an increase of food prices is a significant reduction of real income. Mistakes on the side of restricting can be costly. For example, the WTO's 2007 Trade Policy Review for Indonesia reports that '[t]he two thirds of farming households in Indonesia who are net consumers of rice were adversely affected when the Government announced a seasonal import restriction on rice from January 2004, which has been extended repeatedly and effectively become permanent.'<sup>49</sup>

In the following subsections I present the results of two simulations that look at the SSM from the perspective of a guideline for when an import restriction would or not be the correct policy choice.

### **Identifying incidents of price undercutting**

Raul Q. Montemayor (2008) has conducted a sophisticated simulation exercise to better understand how the proposed SSM would perform. Though his primary objective is different from determining when the mechanism would make the correct choice between imposing versus not imposing an import restriction, his results do provide considerable insight on that issue.

Montemayor applied the proposed SSM rules to historical data; his data base included monthly imports mostly from 2000 to 2005 of six countries: China, Ecuador, Fiji, Indonesia, the Philippines and Senegal.

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<sup>48</sup> WTO Document WT/TPR/S/204, page 90.)

<sup>49</sup> WTO document WT/TPR/S/184, page 67.

He begins his analysis by identifying 'problematic months,' of serious price-undercutting, in which the price of imports including the full bound duty was 10 percent or more below the domestic price of the product. He then applied the proposed rules for the SSM price and volume triggers to determine when these triggers would allow an additional duty. The simulation covered potentially 432 'months' – 6 countries times 6 years times 12 months/year – though there were months in which one country or another recorded no imports for some products.

I summarize his findings below, focusing on the two types of error associated with managerial decision rules:<sup>50</sup>

- Type 1: to not act when action is the correct decision
- Type 2: to act when not acting is the correct decision.

Basic outcome: Problematic months and SSM duties triggered (price plus volume triggers)

as percentages of total number of 'months'

	Percentage
Problematic	49
SSM duty triggered	46
SSM duty triggered in a Problematic Month	22

Accuracy 1: Instances of serious price undercutting (problematic months) in which the SSM triggered action versus when it did not, as percentages of total number of 'months'

	Percentage
Problematic months	49
In which:	
SSM duty triggered	22
SSM duty not triggered	27

Accuracy 2: Instances in which action was prescribed when it was correct (problematic months) versus when it was not, as percentages of total number of 'months'

	Percentage
SSM duty triggered:	46
In a month that was:	
Problematic	22
Not problematic	24

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<sup>50</sup> The numbers that follow are from Montemayor's 'base case,' in which the minimum increase of imports required to trip the volume trigger is 5 percent over the previous three year average. The 'base case' price trigger is 70 percent of the average over the past three years.



Judged by either managerial standard, the trigger mechanisms perform poorly.

- In more than half of the instances in which there was a problem, action was not triggered.
- More than half the time an action was triggered there was no need for it.

### **Related findings from the past<sup>51</sup>**

This finding – that rules to ‘fill in’ with policy remedies in ‘exceptional’ years are likely to be inaccurate – is not an isolated one. Studies sparked by an earlier, 1970s, concern to deal with the instability of receipts from primary products produced similar results. Considerable research was done to simulate the behavior of buffer stocks that would stabilize prices by selling when the price was above then long-run trend line, buying when it was below. These studies likewise found that workable decision rules to identify when to buy or when to sell were difficult to devise. Even when predictions of future prices (on which buy/sell decisions depended) were based on sophisticated regressions – over many or few past years – the buffer stock turned out in retrospect to be on then wrong side of the market as often as on the correct.

Analysis of a more ‘macro’ instrument, the IMF’s Compensatory Finance Facility, produced a similar conclusion. The intent of the CFF is to lend to countries when their export receipts are below trend, the countries repay in above trend years. Over the long term, export receipts net of borrowings and repayments should then be more stable than ‘raw’ receipts. Analysis revealed that net receipts were in fact less stable. The problem again was the difficulty of deciding in any year if that was an above-trend or a below-trend year. More than half of borrowings had been in years in which export receipts had been above trend.

Another problem – more political perhaps than economic – these studies identified was that price cycles tended to be longer than the politics behind the support for policy instruments seemed to presume. Commodity agreements, the political tradition was, had a life of five years, then were renegotiated. Analysis indicated that an agreement would sometimes have to stay on the same side of the market (always buying or always selling) for longer than that. The possibility that international politics would be strong enough to support such action was unlikely.

SSG measures, likewise, have been applied more-or-less continuously to the same products over the 12-year history of the instrument. This point is documented in Annex 1.

Valdés and Foster (2005, p. 16), in their extended study of a possible SSM, also caution about the difficulty of accurately separating instability from trend. They consider this problem to provide sufficient opportunity for misuse that they suggest a rule-of-thumb limit on the number of years a measure might remain in

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<sup>51</sup> The work in the following three paragraphs is presented in more detail in Finger, 2002, chapters 6 and 7.

place. They also caution (p. 2 and p. 14) that the politics of the SSG presumed shorter departures from trend than world markets tend to produce.

## **Differences by provenance of unit values: another source of mistaken signals**

(This section was prepared by J. Michael Finger and Francis Ng.)

The SSM price trigger takes unit values aggregated over imports from all sources as the trigger or reference price, though in real-world commerce, unit values differ considerably from one source to another. Thus, even though the price from a source may be constant, the price trigger will allow additional duties on imports from that source.<sup>52</sup>

Because unit values of imports from developing countries are often lower than those of imports from developed countries, using as triggers unit values calculated from imports from all sources will introduce a bias against developing country exporters. To develop an indication of how large this bias might be, we compared for a sample of developing country importers (Brazil, China, India, Indonesia, Malaysia and Mexico) the unit values of imports from different countries. The experiment covers these six importing countries and twenty-five 6-digit product lines. All of the data were for calendar year 2006 – we were comparing unit values from one source with unit values from other sources, not unit values in one year with unit values in previous years. The ‘restrictions’ that this experiment will trigger result entirely from differences in prices from one source to another, not from declines of prices over time.

The exercise then is about identifying unintended consequences of the proposed trigger mechanism, particularly that:

- Even if prices are unchanging over time, the price trigger as proposed will authorize a considerable number of restrictions.
- Most of these restrictions will be on imports from developing countries.

For each of these countries as importers, we calculated for each HS 6-digit line in agriculture the following:

- The unit value of imports from all sources combined

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<sup>52</sup> This point is easier to explain with an example. Suppose imports in the base year include shipments from two different sources, A and B, as follows:

Source	Volume	Value	Unit value
A	100	\$1000	\$10.00
B	100	\$1500	\$15.00
Aggregate	200	\$2500	\$12.50

The aggregate unit value, the reference price is based is \$12.50.

Suppose in the next year, shipments are identical. The unit value from A is 20 percent below the reference price, hence an additional duty would be triggered.

- The unit value of imports from each source (e.g., China imported soya beans from Argentina, Brazil, Canada, Japan, Korea Republic, Taiwan China, the United States, and Uruguay).

We then screened imports, by country of origin, to identify those where unit values were less than 85 percent of the unit value from all sources.<sup>53</sup>

This application – action against imports triggered when the unit value of imports is 15 percent or more below the unit value of imports from all sources – would allow the following numbers of actions by the six developing country importers over whose imports the experiment was conducted:

Importer	Number of actions triggered against imports from <sup>a</sup>		Percentage of HS lines (by country) with at least one restriction
	Developed	Developing	
Brazil	5	9	45
China	15	24	65
India	10	18	59
Indonesia	30	49	65
Mexico	11	9	39
Malaysia	12	34	87
All Six Countries	83	143	59

Note: a. An action is an additional duty on imports from one country on an individual tariff line.

The preponderance of the restrictions this simulation identifies – 143 out of 226 – would be on imports from developing countries. The trigger would allow a restriction on imports from at least one country of origin on at least 39 percent of tariff lines – on average over the six countries on 59 percent of the tariff lines for which these countries had positive amounts of imports in 2006.<sup>54</sup>

This is a flexibility larger than that provided for ‘Special Products’ and ‘Sensitive Products’ in the tariff negotiations. The tariff modalities allow for special treatment by developing Members of up to one-third of tariff lines as Sensitive Products, up to 12 percent as Special Products.<sup>55</sup>

Another comparison, the Draft Modalities suggest that the SSM be limited to breaching current bound rates on no more than 6 percent of tariff lines, the G-33 proposal would set this limit at 7 percent of tariff lines. The experiment thus

<sup>53</sup> We did the same exercise with a trigger price 10 percent below the all-source unit value and came up with negligibly different results.

<sup>54</sup> Additional results of these simulations are presented in Annex 3.

<sup>55</sup> WTO 2008b, paragraphs 72 and 129.

shows that there is enough 'noise' in trade data to more than overwhelm whatever economic content the SSM formulas might intend.<sup>56</sup>

## **8. SSM AS PART OF THE MARKET ACCESS ISSUE**

Though Director-General Pascal Lamy singled out the SSM as the issue on which the July 2008 WTO meetings foundered, it is difficult to separate the SSM from the other parts of the agricultural negotiations. Tentative agreement on modalities for tariff reduction formulas and exceptions may have been more a matter of shifting problems to the SSM discussions than of resolving them.

### Tariff rates

Not only do agricultural tariff rates differ markedly from one WTO Member to another, bound rates for a number of Members are many percentage points above applied rates. Differences are as pronounced among developing Members or among developed as between the groups. Among developed Members, the spread between bound and applied rates is near zero for several, above 60 percentage points for others. Among developing Members, the spread is near zero for China and the three Chinese customs territories treated as separate WTO Members (Hong Kong, China; Macau, China and Chinese Taipei); 80 percentage points for India, over 100 percentage points for a number of others. (Annex 4 enumerates tariff rates and bound-applied spreads.)

The large bound-applied spreads mean that reductions of bound rates (the coin of GATT/WTO negotiations) will have to be large relative to the level of cuts achieved in previous rounds if market access is to be enhanced – applied rates reduced. Because the spread between bound rates and applied rates varies considerably among Members at comparable levels of development, arithmetically equal reductions of bound rates will have a greater bite for some than for comparable Members.

Differences among Members in the present spread between bound and applied rates also mean that pre-Doha Agreement bound rates as limits on SSM application will mean more stringent limits on some Members than on others.

### Tariff formula and flexibilities

The tentatively modalities provide tariff reduction formulas are complex and 'flexibilities' that allow each Member considerable latitude to exclude products from the formula reductions – as special or sensitive products. Martin and Mattoo's analysis indicates that the flexibilities have the potential to reduce the

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<sup>56</sup> A recent analysis by de Gorter, Kliauga and Nassar (2009) applied the price formula of the July 2008 modalities to the imports of India, China, Korea and Indonesia over the period 1998-2003. They report (Table 3) that the formula would have authorized SSM duties on 6 percent of these countries' agricultural imports from developed countries, as compared with 25 percent of imports from least developed countries and 10 percent of imports from developing countries.

concessions by higher income countries by more than half, to almost eliminate reductions of applied rates by developing countries (Table 8.1).

The 'flexibilities' in the agricultural modalities are considerably larger than those in the market access negotiations on non-agricultural merchandise (NAMA). Table 8.2 shows, for example, that while the agricultural flexibilities would allow developing Members to take back 59 percent of the reduction of agricultural bound rates, NAMA flexibilities would allow a take back of only 11 percent of the formula reduction.

This means that much of the bargaining in agriculture will be over which products each country names as its special or sensitive products. Though the modalities suggest that each Member will unilaterally name these products, there has been in fact hard bargaining over which countries will name which products as special or sensitive.<sup>57</sup>

Agreed formulas and other modalities state political commitment but not legal obligation. In the end, a Member's legal obligation will be specified not by these modalities but by the schedule of tariff rates the Member submits. There is no provision in the modalities for an neutral reviewing of schedules for compliance with the tariff-cutting formulas nor with the modalities' standards for and limits on excepting products from the formula cuts. This screening will be done individually by Members, determinations about whose or which parts of schedules comply with agreed modalities will be part of the negotiations.

It is indeed a possibility that because of their generous flexibilities the modalities do not advance the market access negotiations for agricultural products; they may instead transfer it to a yet-to-come negotiation focused on the schedules that each Member in the end will notify as its legal obligation. In turn, it may not be possible to complete the SSM negotiations until Members have a more precise idea of the tariff schedules from which the SSM will allow exceptions.

Table 8.1 Summary of the impact of the December 2008 draft agricultural modalities on applied rates— Concessions given by groups of Members

Group	Applied Rates			
	Base rates levied	Base to formula	Formula to exceptions	Net: Base to Formula + exceptions
High income countries	15	-7.5	3.5	4
Developing non-LDC	13.4	-1.9	1.8	0.1
LDCs	12.5	-0.3	0.3	0

Source: Calculated from Martin-Mattoo, 2008, Table 1.

Note: The base rates are ad valorem equivalents of rates applied in 2004, with adjustments for internationally-binding commitments to reform; e.g., Ukraine's

<sup>57</sup> See for example the discussion in Bridges Weekly Trade News Digest 10<sup>th</sup> December 2008.

accession commitments. The figures for changes are for percentage points reduction, e.g., from 15% ad valorem to 9% ad valorem would be -6.0, a reduction of 6 percentage points.

Table 8.2: Summary of the impact of the December 2008 draft agricultural and NAMA<sup>a</sup> modalities; Flexibilities take-back as percentage of the formula cut

	Applied Rates		Bound Rates	
	Agriculture	NAMA	Agriculture	NAMA
High income countries	47	0	36	20
Developing non-LDC	95	50	59	11

Source: Calculated from Martin-Mattoo, 2008 Table 1.

Note: a Non-Agricultural Market Access

## 9. CONCLUSIONS AND COMMENTS

The strength of traditional GATT/WTO flexibility provisions is that they have allowed adjustment within a system that provides for general pressure toward liberalization – flexibility to take restrictive action within a system that provides general discipline not to do so. The effectiveness of GATT/WTO safeguard or flexibility provisions to sustain long-run liberalization programs stems from their requiring objective, transparent and participatory national decisions on the application of new/exceptional import restrictions. Their usefulness does not stem from the ‘formulas’ they have provided, e.g., injury or injurious dumping.

The proposed SSM (like the existing SSG) includes no procedural requirements; defines by arithmetic formulas when a Member may impose a new import restriction. The formulas expand Members’ scope for imposing restrictions but they provide a poor guide as to when it makes sense to do so. Simulations indicate that the formulas frequently prescribe action when it is not needed, frequently fail to prescribe action when it is appropriate. To the extent that the proposed SSM is more than a defense of Members’ latitude to unilaterally increase their tariff rates, it is bad guidance on when to do so – or not to do so.

Even without the proposed SSM, the tentatively agreed flexibilities to name special and sensitive products provide great scope to avoid the tariff reductions the agricultural formula would otherwise imply. Such modalities suggest lack of agreement rather than agreement on what liberalization Members will undertake. Failure to agree on the additional flexibilities the SSM would provide is part of this broader lack of agreement.

The current pause in the Doha Round negotiations provides an opportunity to think farther about what the negotiations are about. In the spirit of general commitment to policies that will support development, I offer two comments.

The first is to remind all of us, analysts and negotiators, that the objective of a safeguard provision is to support good choices over bad rather than to support restriction over liberalization, or vice versa. In the mercantilist environment of a trade negotiation it is easy to slip into a mercantilist perspective. While I have

used Montemayor's (2008) results to gauge how well the SSM triggers would separate appropriate action from inappropriate, the criterion he himself applies is how often developing countries would be allowed to impose additional duties, e.g., 'slightly higher volume and price thresholds ... would not seriously compromise access rates.' (p. 11) By this standard, the ideal parameters are those without limit on magnitude of remedy or on when remedy can be applied. The criterion of accuracy – how often the SSM as a decision rule would indicate the correct versus the incorrect decision – slips out of consideration.

The exchange of SSM proposals in Geneva has been captured by the same mentality: exporters submitting proposals that would allow fewer SSM restrictions, importers submitting proposals than would allow more. Functionally speaking, this is part of the market access negotiations – agreeing the limits beyond which each government reserves the right to unilateral action – rather than an attempt to design a policy decision mechanism.

If the SSM discussion is about creating an effective safeguard mechanism then it should be about creating a good management tool. That management tool should help a government to reach a correct decision and to sustain that decision among its various constituencies. This suggests that the discussion should be about process rather than about criteria/formulas, particularly about finding a role for interested parties so that they have a sense of ownership/acceptance of whatever decision is reached.

A second comment relates to the number of objects at play relative to the limited policy instrument the SSM mechanism will provide.

The SSM negotiations reflect a multiplicity of concerns/objectives; among them:

- Allowing policy response to departures from trends but not to trends
- The length of departures from trends
- Allowing policy response to random short-term variations but not to regular or seasonal short-term variations
- Food security
- The pace of shifting resources from agriculture to other sectors
- The wisdom of imposing year-to-year adjustments on resources that have comparative advantage in agriculture.

Viewed from an unflattering perspective, the SSM negotiations are an attempt to reduce the set of management tools needed address these concerns to an arithmetic formula for tariff rates. This view brings forward the SSM negotiations as an example of a problem that Aaditya Mattoo and Arvind Subramanian (2009) have presented in a broader context: the Doha Round has taken on an agenda trivial to the problems the international community now faces. The tool set to which the negotiators have limited themselves may be inadequate to manage the issues, complications and interactions at hand – an attempt to control the side effects of remedies not outlined for problems not taken up.

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## **Annex 1: Details of SSG parameters and notifications of application of SSG measures**

The volume-triggered SSG allows WTO Members to impose an additional duty on over-quota imports equivalent to one-third of the over-quota tariff<sup>58</sup> if, in any given year, imports of an eligible product exceeds 125% of the average imports over a 'base period' – the most recent 3 years for which data are available. A lower trigger level may be used if domestic consumption is taken into consideration, but in practice SSG volume trigger applications have been almost entirely on the basis of the 125 percent increase over base year volume. Canada, for example, publishes volume-trigger levels in advance, these based entirely on the 'no data for domestic consumption' version of the specifications.<sup>59</sup>

The price trigger allows imports to be screened shipment-by-shipment to identify prices below the average 1986-1988 price. (The AoA refers to this 1986-1988 average as the reference or trigger price.) By the formula that defines the allowed additional duty, that additional duty will absorb part of the difference between the shipment price and the historical reference price, but never all of it. The additional duties cannot be applied to imports taking place within tariff quotas. (Figure A1.1 illustrates how the additional duty increases as the shipment price falls below the trigger price.)

Once a trigger has been tripped, the maximum duty the Member may apply on any import shipment has been increased by the amount of the additional duty. As with other GATT-sanctioned safeguard measures, any Member taking an SSG action must offer other Members the opportunity to consult about the conditions of that application, but compensation is not required and exporters have no recourse to retaliation.

Administratively speaking, the volume trigger is not burdensome to operate. To establish a volume trigger, the data required are the tariff item numbers and the volumes of imports for three previous years (the three previous years are the three most recent for which data are available). So long as the member is satisfied with a volume trigger of 125 percent of the previous 3-year average (the trigger when the import consumption ratio is less than 10 percent) no data on domestic consumption are required. Table A1.1 provides an example of a typical notification. The duty formula is straightforward – the maximum additional duty is 1/3 the amount of the ordinary duty.

Likewise, the price trigger provides minimal administrative burden. As to data requirements, the trigger prices are simply 1986-88 averages of import unit values. As Table A1.2 illustrates, three numbers – the unit values for each of three years – are all that is required. Concerns about the invoice price on a

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<sup>58</sup> The additional duty is 1/3 of the bound rate, not the applied rate.

<sup>59</sup> Agriculture and Agri-food Canada, 'Notice of Special Agricultural Safeguard Price and Volume Triggers,' at [http://www.agr.gc.ca/itpd-dpci/technical/ssg\\_e.htm](http://www.agr.gc.ca/itpd-dpci/technical/ssg_e.htm).

shipment being the true transactions price are the same for administering SSG actions as for administering ordinary customs duties. The formula for calculating the additional duty that may be applied to any shipment is more complex than that for the volume trigger, but could be programmed by a competent technician in a short time.

The major administrative constraint on applying such measures (volume or price-based) is the requirement that the products on which measures might be applied had to be so marked when the post Uruguay-Round schedules of agricultural tariffs were submitted.

The SSG's price trigger system allows the importing country government to screen each shipment against trigger prices, but once the trigger prices are posted, a system such as this will be in large part self-enforced by exporters. Unless exporters raise their prices to the level demanded by the additional duty formula, that difference will be added by the importing country's authorities – the buyer will pay the higher price, the choice the exporter faces is to collect the higher price himself or see the importing country government collect it.

It was therefore no surprise that immediately the Uruguay Round agreements went into effect, several Members notified 'up-front' trigger prices for the tariff lines on which they had reserved the right to apply SSG measures.<sup>60</sup> The EEC and the US, for example, notified complete schedules of trigger prices in 1995. Korea notified trigger prices for 12 tariff lines in early 1995; notified the remainder its schedule in September 1996. Canada posts up-front volume as well as price triggers, the volume triggers are recalculated each year.<sup>61</sup>

#### Notification requirements

As to notification of SSG actions, WTO Members have agreed standardized formats for how they will report.<sup>62</sup> The document prescribes an 'Annual summary of special safeguard actions taken,' in the format of 'Table MA.5.' The following, taken from Japan's notification of actions in 1995, illustrates format and content.<sup>63</sup>

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<sup>60</sup> The AoA (Article 7) requires that any Member applying a volume triggered SSG measure must notify the WTO 'as far in advance as may be practicable and any event within ten days of the implementation of such action.' Canada's (discussed elsewhere in this annex) is the only example of up front notification of volume triggers.

<sup>61</sup> The EEC notification is reported in WTO document G/AG/N/EEC/2 (8 August 1995), United States trigger prices in G/AG/N/USA/1 (10 February 1995); Korea in G/AG/N/KOR/2 (1 June 1995) and G/AG/N/KOR/6 (12 September 1996). Canada's price and volume triggers are available at Agriculture and Agri-food Canada, 'Notice of Special Agricultural Safeguard Price and Volume Triggers,' at [http://www.agr.gc.ca/itpd-dpci/technical/ssg\\_e.htm](http://www.agr.gc.ca/itpd-dpci/technical/ssg_e.htm).

<sup>62</sup> WTO document G/AG/2 (30 June 1995) Committee on Agriculture, Notification Requirements and Formats.

<sup>63</sup> Taken from WTO document G/AG/N/JPN/7 (8 May 1996)

**MA.5 MARKET ACCESS: JAPAN****REPORTING PERIOD: Fiscal year 1995 (from April 1, 1995 to March 31, 1996)***Annual summary of special safeguard actions taken*

Tariff item number	Description of product	Whether volume-based action taken during period	Whether price-based action taken during period
1108.19.099	Other starches (excluding Sago starches)	None	Date of application: May 18, 1995
0402.10.129	Milk powder, containing added sugar, of fat content by weight, not exceeding 1.5%	None	Date of application: June 22, 1995
0404.10.149	Whey and modified whey, of fat content, by weight, not exceeding 5%	None	Date of application: June 26, 1995
5002.00.221 5002.00.222 5002.00.223 5002.00.226 5002.00.227	Raw silk	Period of application: from March 1, 1996 to March 31, 1996	None

As this illustrates, the required information is limited to when an action was taken, on which tariff lines. It does not include the volume or value of imports on which an additional duty was levied, nor on the magnitude of the additional duty levied.

Some members provide additional information; e.g., the US and Korean reports provide the volume of imports on which volume-based and price-based SSG actions have been taken.

US notifications indicate that all shipments are screened for the possibility of applying a price-based additional duty:

United States price-based safeguards are invoked automatically on a shipment-by-shipment basis. Importers who enter goods under an over-quota tariff line are required to declare which pre-established price range is applicable to their product. If there is a safeguard duty associated with that price range, the additional charge is assessed.<sup>64</sup>

US notifications on volume-based actions state the time period over which a volume-based additional duty is applied as well as the volumes of imports on which SSG action has been taken.

Though the EEC has posted an up-front schedule of trigger prices, EEC reports list the products for which the special safeguard system 'has been made operational' in each marketing year; e.g., 'In marketing year 2002/2003, the price-based special safeguard system has been made operational for the following products.'<sup>65</sup>

There follows in the EEC notifications a list of products, followed by the statement, 'An additional import duty may be imposed if the import prices for above-mentioned products fall below the trigger prices, which have been notified to the WTO (G/AG/N/EEC/2).'<sup>66</sup>

It appears thus that the EEC employs a two stage monitoring process. There are posted trigger prices for a spectrum of agricultural products, the system is 'made operational' each year for a specified list of these products, but the EEC does not specify on which, if any, of these products SSG duties have been levied.

The EEC likewise notifies a list of products on which the volume-based special safeguard system has been made operational each year. The EEC has also reported year-by-year that volume based safeguard action has not been invoked. (There is no parallel statement for price-based action.)

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<sup>64</sup> G/AG/N/USA/61 (17 December 2007) p. 1.

<sup>65</sup> G/AG/N/EEC/54 (14 February 2008) p. 1.

<sup>66</sup> G/AG/N/EEC/54 (14 February 2008) p. 1.

### Application of SSG measures

Notifications of measures are summarized in Table A1.3. These numbers came from a review of national notifications available on the WTO documents website. In this review I found that a number of WTO Members who have reserved in their schedules the right to apply SSG measures have notified year-by-year that they have taken no SSG actions.<sup>67</sup> Other countries have taken limited actions. Norway is an example. A search of WTO documents identified nine SSG notifications from Norway. The first seven are MA.5 notifications of no SSG actions in 1995, 1996, 1997, 1998, 1999, 2000, 2001.

The eighth is a MA.3 notification of a Volume-based action on one product, (flakes and granules of potatoes; tariff item number: 1105.20). The ninth notification, submitted 15 September 2008, reports no SSG actions in 2002, 2005 and 2007. It also reports that for flakes and granules of potatoes 'Action commenced 5 April 2006 and ceased on 31 December 2006.'<sup>68</sup>

Among developed Members, the United States, Japan, and the EC appear to be the main users of SSG system.<sup>69</sup> The Rep. of Korea and Chinese Taipei have applied a number of measures while other developing Members have been occasional appliers. The numbers of tariff lines for which major users have reported SSG application are listed in Tables A1.4 through A1.10. Because the SSG system functions as a minimum price system, the impact of the SSG system should not be judged by the number of products on which duties were levied.

The typical pattern of usage is that measures remain in force on products for several years. For example, in 1999, Costa Rica imposed price-based measures on 4 tariff items. Three of those were subject to measures through 2003; Costa Rica has imposed no other SSG measures. Other examples:

- the EC volume-based special safeguard has been operational for the same list of fruits and vegetables since the SSG mechanism was created, the price-based special safeguard year-by-year for poultry meat and sugar.
- of the 17 products on which Chinese Taipei has applied measures, on only one have measures not been in place in consecutive years; on 6, measures have been in place each year, 2002-2007.

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<sup>67</sup> The Members whose notifications I have reviewed are the following. The year or crop year in parenthesis is the most recent year for which a notification is available on the WTO documents database as of 09 January 2009. Australia (2006); Botswana (2007/2008); Canada (2007); Colombia (2004); Ecuador (2005); El Salvador (2002/2003); Iceland (2002/2003); Indonesia (2000); Israel (2004); Malaysia (2007); Mexico (2005); Namibia (no notifications); New Zealand (2007); South Africa (2006); Swaziland (no notifications); Thailand (2006); Venezuela (1998)

<sup>68</sup> G/AG/N/NOR/48 (17 September 2008) p. 2

<sup>69</sup> Hallaert (2005), tabulated all notified actions through 2000, notes also that transition economies, particularly Poland were also significant users. The transition economies who were significant users have since become Member States in the EC.



Some details of product coverage:

EEC price-based: The price-based list includes sugar and molasses plus poultry meat and poultry meat products. Sugar and molasses appear on the 'made operational' list each year. Chicken meat has been on the list every year, turkey carcasses and pieces were added in 2001/2002. (Year by year coverages are compared in Table A1.11.)

EEC volume-based: Vegetables and fruits make up the list for which the EEC volume-based SSG system has been operational. The same products; e.g., tomatoes, cucumbers, apples, lemons, oranges; are on the list each year. Each product is on the 'made operational' list for the same period each year; e.g., oranges, 1 December 2002 to 31 May 2003 for the 2002/2003 marketing year; a parallel period, 1 December to the next 31 May for other marketing years. Many products are on the 'made operational' list for the entire year, e.g., tomatoes and cucumbers. (Year by year coverages are compared in Table A1.12.)

United States: The list of products on which the United States reports price-based actions is likewise much the same from one year to the next. The list includes sugar and products containing sugar, milk and milk products such as cheeses and yogurt. Some years peanuts and cotton are on the list, others not. The United States has reported volume-based actions in only two years; 1998: on sheep meat, 6 tariff lines, on 3,709 tones; 2002: on Cheese and curd, 2 tariff lines, 2,071 kg.

Japan: Japan's reporter actions have been more volume-based than price-based. Again the list of products varies little from year to year; products on the list include swine and swine meat, milk and milk products, beans of various types, rice and wheat and flours and starches of wheat and rice.

Korea: The list includes groundnuts; wheat, buckwheat along with their starches and other vegetable starches and meals; peas and beans; ginseng and products. As with other countries, the list changes little from year to year.

Chinese Taipei has continuously (2002-2007) applied SSG measures on chicken parts, liquid milk, peanuts, oriental pears and red beans. Measures were applied on sugar 2002-2005, but there are no more recent notifications of SSG measures on sugar. (As of 09 January 2009).

Tables at the end of this annex list the year-to-year product coverage of SSG measures by major users.

**Figure A1-1: Illustration of the magnitude of the additional duty allowed by the SSG price-based formula**  
(as the shipment price falls, the duty-inclusive price declines to about 65 percent of the trigger price, then increases)

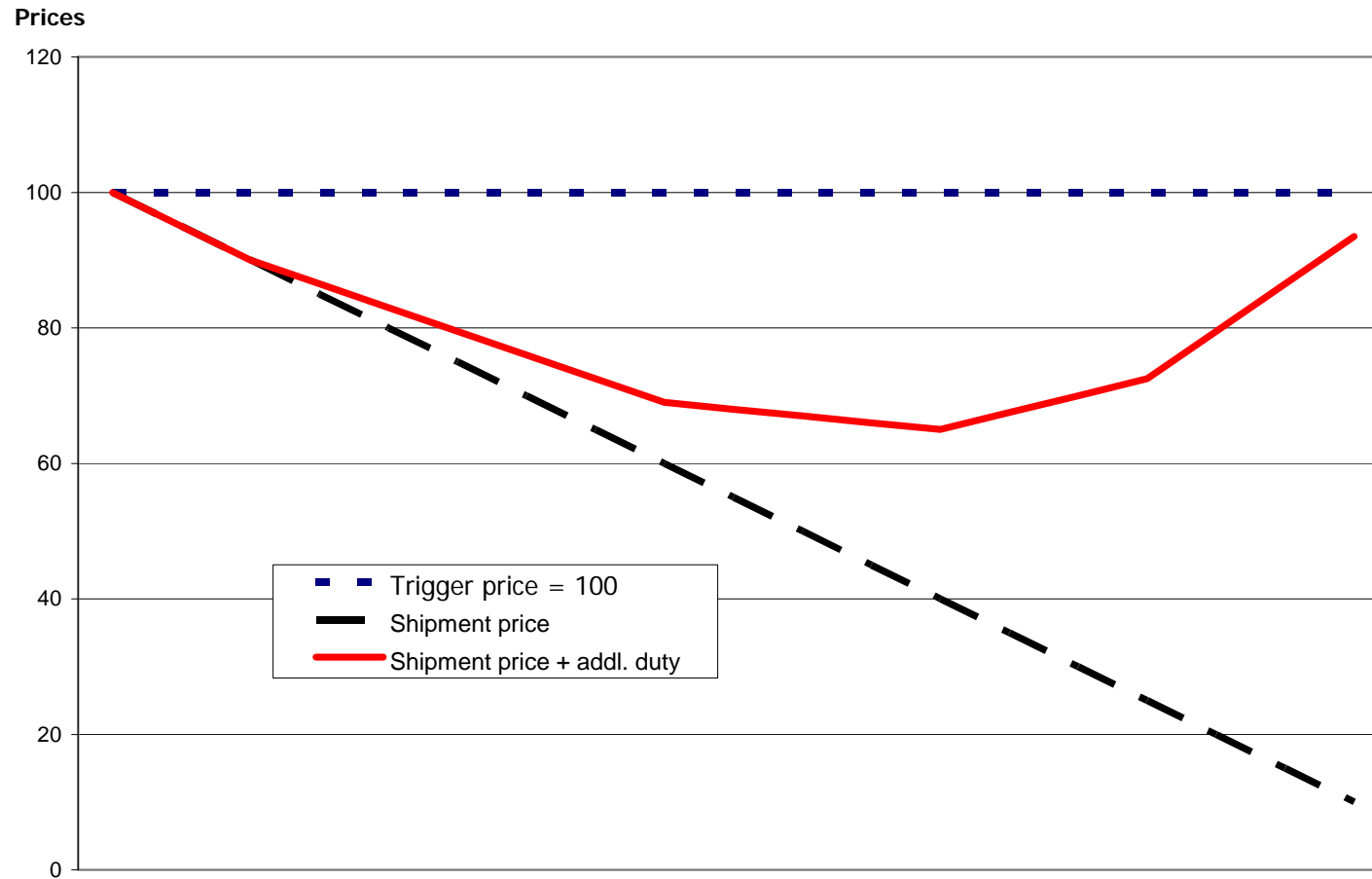


Table A1.1: Example of SSG Volume-Based Measure Notification

Volume-based Measure

The following notification concerning the volume-based special safeguard (**Table MA:3**) was received from the delegation of the **United States** on 28 August 1998.

**MARKET ACCESS: United States**

*Notification under Article 5 of the Agreement: special safeguard: volume-based*

- 
1. Description of product: Sheep meat
  2. Tariff item numbers: 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, 0204.43.40
  3. Trigger level: 9,335 MT
  4. Volume of imports entering territory in current period: 1 January 1998 through 2 August 1998  
10,865.569 MT
  5. Period of application: From 10 August 1998 to 31 December 1998
- Information required for the calculation of the Trigger Level:
- |          |                                 |
|----------|---------------------------------|
|          | Imports in the preceding years: |
| 1995:    | 2,826 MT                        |
| 1996:    | 9,787 MT                        |
| 1997:    | 9,792 MT                        |
| Average: | 7,468 MT                        |

Note: In accordance with paragraph 4 of Article 5 of the Agreement on Agriculture, the base trigger level was calculated as 125% of the 3-year average imports.

Source: WTO Document (G/AG/N/USA/18)

Table A1.2: Example of SSG Price-Based Measure Notification

Price-based Measure

The following notification concerning the price-based special safeguard (**Table MA.4**) was received from the Permanent Mission of **Costa Rica** on 7 October 2002.

**MARKET ACCESS: Costa Rica**

*Notification under Article 5 of the Agreement:*

*Special Safeguard: Price-Based*

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(1)	Description of product:	Rice in the husk
(2)	Tariff item number:	1006.10.90
(3)	Trigger price: (as calculated in Annex 1)	US\$223.78/tonne
(4)	Date of application:	27 September 2002

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SPECIAL SAFEGUARD: PRICE-BASED: Annex 1 to Table MA.4		
Information required for the calculation of the Trigger Price		
Prices in the reference period: 1986		
	US\$201.60/tonne	
		1987
	US\$213.35/tonne	
		1988
	US\$256.07/tonne	
		Average
	US\$223.78/tonne	

Source of price information: IICA - CIAPA.

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Source: WTO document (G/AG/N/CRI/14)

Table A1.3: Notifications of SSG Measures by major users

Member	Number of tariff items reserved for SSG application	Maximum number in any one year, 1995 through year indicated in last column		Annual Notifications are available for 1995 through <sup>b</sup>
		Price-based measures applied	Volume-based measures applied	
Chinese Taipei <sup>e</sup>	n.a.	15	54	2007
Costa Rica	87	4	0	2007
European Communities	539	17	27 <sup>f</sup>	2006/2007
Hungary <sup>a</sup>	117	7	0	2004
Japan	121	16	61 <sup>c</sup>	2007
Korea	111	8	13	2004
Norway	49	0	1	2006
Poland <sup>a</sup>	144	106 <sup>d</sup>	0	2004
Slovakia <sup>a</sup>	114	0	4	2004
Switzerland-Liechtenstein	961	7	0	2006
United States	189	83	6	2006

Source: WTO 2002 (covers 1995-2001) and country annual notifications available on the WTO Documents online website.

Notes:

n.a. = not available

a Acceded to the EU in May 2004.

b as of 09 January 2009.

c Second-largest number is 10.

d Second-largest number is 7.

e Acceded to the WTO 1 April 2002; first annual notification is for 2002.

f The number of tariff lines for which EC notifications indicate that the volume-based system was 'made operational.' EC notifications also state each year that no volume-based measure was 'applied.' There is no parallel notification for the EC price-based system.

Table A1.4: Japan; Numbers of tariff headings subject to SSG Actions, 1995-2007

Fiscal Year <sup>a</sup>	Volume-based <sup>b</sup>		Price -based
	(5-digit headings)	(additional 8-digit lines)	(8-digit lines)
1995		5	3
1996		71	0
1997		5	0
1998		3	2
1999	1	2	8
2000	1	6	4
2001		10	0
2002		0	8
2003	6	1	13
2004		0	9
2005		4	6
2006		2	16
2007		5	10

Source: Tabulated from national notifications of SSG actions, available on the WTO documents website.

Notes

a The fiscal year runs from 1 April of the year indicated until 31 March of the following calendar year; e.g. FY 1995 covers 1 April 1995 – 31 March 1996.

b In 1996, the large number of tariff lines were for live swine and swine meat. 1999 and 2000: the 5-digit heading was Inulin. 2003: the 5-digit headings were for butter and other dairy fats and for Maize (corn) starch and other vegetable starches and products.

The principal products covered were Milk and products, rice, beans, wheat and rice flours and starches, swine and swine meat, raw silk.

Table A1.5: United States; Numbers of tariff headings subject to SSG Actions, 1995-2006

Year	Tariff Lines subject to actions	
	Volume-based <sup>a</sup>	Price-based
1995	0	24
1996	0	49
1997	0	74
1998	6	74
1999	0	35
2000	0	37
2001	0	44
2002	2	51
2003	0	65
2004	0	83
2005	0	65
2006	0	72
Memo item: Number of tariff lines for which trigger prices were notified 'up-front'		181

Source: Tabulated from national notifications of SSG actions, available on the WTO documents website.

Notes:

a Volume-based measures 1998 on sheep meat, 6 tariff lines, on 3,709 tonnes; 2002 on Cheese and curd, 2 tariff lines, 2,071 kg.

Price-based measures covered principally Cheeses and products, Milk and other dairy products, Sugar and products containing sugar, Beef, Peanuts and products, Short and long staple cotton.

Table A1.6: Republic of Korea; Numbers of tariff headings subject to SSG Actions, 1995-2004

Year	Tariff Lines subject to actions	
	Volume-based	Price-based
1995	0	3
1996	0	5
1997	2	7
1998	2	7
1999	2	6
2000	13	8
2001	8	8
2002	3	7
2003	10	8
2004	4	8
Sums	44	67
Memo item: Number of tariff lines for which trigger prices were notified 'up-front'		99

Source: Tabulated from national notifications of SSG actions, available on the WTO documents website.

Note:

Product coverage; principally Groundnuts; Wheat, buckwheat along with their starches, Other vegetable starches and meals; Peas and beans; Ginseng and products.



Table A1.7: European Economic Communities, Numbers of tariff lines for which the special safeguard system was operational (EC schedule lines, 8-digit)

Marketing Year	Volume-based <sup>a</sup>	Price-based
1995/1996	not invoked	12
1996/1997	26	14
1997/1998	26	13
1998/1999	27	12
1999/2000	26	13
2000/2001	27	13
2001/2002	27	17
2002/2003	27	16
2003/2004	27	17
2004/2005	27	17
2005/2006	27	15
Memo item: Number of tariff lines for which trigger prices were notified 'up-front'		531

Source: Tabulated from national notifications of SSG actions, available on the WTO documents website.

Note:

a The EEC has notified annually, 1995/96 through 2005/2006, that volume-based action has not been invoked.' There is no parallel notification for price-based measures.

Table A1.8: Chinese Taipei; Numbers of tariff headings subject to SSG Actions, 2002-2007

Year	Volume-based	Price-based
2002	11	13
2003	54	5
2004	34	2
2005	42	6
2006	31	5
2007	21	15

Source: Tabulated from Chinese Taipei notifications, WTO documents G/AG/N/TPKM/8, 20, 27, 36, 46, and 58.

Table A1.9: Philippines; Numbers of tariff headings subject to SSG Actions, 1995 - 2004

Year	Volume-based	Price-based
1995	0	0
1996	0	0
1997	0	0
1998	0	0
1999	0	0
2000	0	0
2001	0	0
2002	1	6
2003	0	0
2004	0	2

Source: Tabulated from Philippines notification, WTO documents G/AG/N/PHL/33. (Philippines notifications are not available for later years.)

Table A1.10: Poland: Numbers of tariff headings subject to SSG Actions, 1995-2004

	Tariff Lines subject to actions	
Year	Volume-based <sup>a</sup>	Price-based
1995	0	0
1996	0	2
1997	1	3
1998	1	5
1999	1	113
2000	2	9
2001	1	8
2002	0	138
2003	0	14
2004 <sup>a</sup>	0	100
Memo item: Number of tariff lines for which trigger prices were notified 'up-front'		140

Source: Tabulated from national notifications of SSG actions, available on the WTO documents website.

Note: a 01 January – 30 April. Poland acceded to the EC on 01 May 2004

Table A1.11: Products for which the EEC Price-based SSG system was operational, by marketing year  
('X' indicates products for which the system was operational)

HS code	Product description	Marketing year									
		1996/1997	1997/1998	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
0207 12 10	Chicken carcasses, 70%, frozen										X
0207 12 90	Chicken carcasses, 65%, frozen				X	X	X	X	X	X	X
0207 14 10	Boneless cuts of fowls of the species <i>gallus domesticus</i> , <sup>a</sup> frozen	X	X	X	X	X	X	X	X	X	X
0207 14 50	Chicken breasts, frozen								X	X	X
0207 14 60	Chicken legs, frozen						X	X	X	X	
0207 14 70	Other chicken cuts, frozen				X	X	X				
0207 25 10	Turkey carcasses, 80%, frozen						X	X	X	X	
0207 27 10	Boneless cuts of turkey	X	X								X
0207 27 10	Boneless cuts of turkey						X	X	X	X	
0207 36 15	Boneless cuts of ducks and guinea fowls, frozen						X	X	X	X	
1602 32 11	Preparations of uncooked fowl of the species <i>gallus domesticus</i> <sup>a</sup>	X	X	X	X	X	X	X	X	X	X
1701 11 10	Cane or beet sugar and chemically pure sucrose, in solid form	X	X	X	X	X	X	X	X	X	X
1701 11 90	"	X	X	X	X	X	X	X	X	X	X
1701 12 10	"	X	X	X	X	X	X	X	X	X	X
1701 12 90	"	X	X	X	X	X	X	X	X	X	X
1701 91 00	"	X	X	X	X	X	X	X	X	X	X
1701 99 10	"	X	X	X	X	X	X	X	X	X	X
1701 99 90	"	X	X	X	X	X	X	X	X	X	X
1702 90 99	Other sugar	X	X	X	X	X	X	X	X	X	X
1703 10 00	Cane molasses	X	X	X	X	X	X	X	X	X	X
1703 90 00	Other molasses	X	X	X	X	X	X	X	X	X	X

Source: Tabulated from national notifications of SSG actions, available on the WTO documents website

Footnote; <sup>a</sup> *gallus domesticus* is chicken.

Table A1.12: European Economic Communities; Products for which the volume-based special safeguard was operational

Marketing Year			
1995/1996	96/97	1997/1998	1998/1999 through 2005/2006
Not invoked	<p>Tomatoes Cucumbers</p> <p>Oranges Clementines Mandarines, including tangerines, satsumas, wilkings and similar citrus hybrids Lemons</p> <p>Apples</p> <p>Pears</p>	<p>Tomatoes Cucumbers</p> <p>Oranges</p> <p>Mandarines, including tangerines, satsumas, wilkings and similar citrus hybrids Lemons Table grapes</p> <p>Cherries</p>	<p>Tomatoes Cucumbers Artichokes Courgettes Oranges Clementines Mandarins, including tangerines, satsumas, wilkings and similar citrus hybrids Lemons Table grapes Apples Cherries Pears Apricots Peaches, including nectarines Plums</p>

Source: Tabulated from national notifications of SSG actions, available on the WTO documents website

Table A1.13: Chinese Taipei; products on which SSG measures were applied, 2002-2007

Product ↓ Year →	Number of tariff lines on which volume-based or price-based SSG measures were applied					
	2002	2003	2004	2005	2006	2007
Betel Nuts	1	1	0	0	0	0
Chicken Legs and Wings	3	1	1	1	1	1
Dried Day Lilies	1	0	0	0	0	0
Dried Shiitake	1	2	1	1	1	0
Fresh Milk	0	2	2	0	0	0
Garlic Bulb	2	2	2	0	2	2
Liquid Milk	3	8	8	8	8	8
Oriental Pears	1	1	1	1	1	1
Other Chicken Cuts	2	1	1	1	1	1
Peanuts	3	6	7	7	7	7
Persimmon	1	1	0	1	0	0
Pork Belly	0	0	0	4	4	4
Poultry offal	0	0	0	13	0	0
Red Bean	4	1	1	11	1	1
Rice	0	10	10	0	10	10
Shaddock	1	1	0	0	0	1
Sugar	1	22	2	0	0	0
Total	24	59	36	48	36	36

Source: Tabulated from Chinese Taipei notifications, WTO documents G/AGRICULTURE/N/TPKM/8, 20, 27, 36, 46, and 58.

## **Annex 2: Share of United States SSG-eligible Imports on which SSG measures were imposed, 2006**

by J. Michael Finger and Francis Ng

The tabulation of applications of SSG measures (Table A1.3, above) indicates that Members have applied relatively few measures. Of the 39 members who reserved tariff lines for possible SSG measures, only 10 have notified SSG measures, and applications have covered only a fraction of the tariff lines which Members reserved for possible SSG application.

This annex provides an attempt to examine further the scope of SSG application and to undertake a preliminary look at one possible explanation for the observed limited application: that agricultural prices have been above the trigger prices. As Members are not required to notify the volume of imports on which SSG measures are applied – only to list the tariff items – information for further analysis is limited. The United States does however report the volume on which measures are applied, these data allow then a calculation of the fraction of imports subject to SSG application.

We find in this analysis that the United States has applied SSG measures on less than 1 percent of the imports of products on which SSG application has been notified. A possible behavioral explanation for this finding is that exporters might price to the trigger prices so as to avoid paying the SSG additional duties. An alternative explanation that we also explore in the annex is that agricultural prices were generally above the trigger prices.

### US imports on which SSG measures were applied

The United States in 1995, notified trigger prices for 180 8-digit tariff lines, Table A1.5, above, reports the numbers of tariff lines on which the United States has notified actions.

Volume-based measures were imposed only in 1998 and in 2002; in 1998 on sheep meat (6 tariff lines, on 3,709 tonnes of imports); in 2002 on cheese and curd (2 tariff lines, 2,071 kg).

In this annex we examine only the price-based actions for 2006. The following table summarizes our comparison of the volumes subject to such action with the total volume of over-quota imports. (SSG measures may not be applied to imports inside of the tariff rate quota, TRQ, on a product.)

Table A2.1: Comparison, US imports subject to SSG action and over-quota imports, 2006

Product category	Price-based action taken (kg)	Total over-quota imports (kg)	percentage: action taken / o-q total imports
Meat	2,693,980	72,377,576	3.72
Milk and dairy products	602,386	108,214,484	0.56
Peanuts and preparations of peanuts	114,945	6,176,855	1.86
Sugar	65,952	495,692,003	0.01
Cocoa powder, chocolate products containing sugar and milk	153,614	14,059,022	1.09
Coffee products	31	2,002,814	0.00
Short-staple cotton	54	7,504	0.72
All products	3,630,962	698,530,258	0.52

Remembering that imports are screened shipment-by-shipment against trigger prices, the basic point the table makes is that only a few shipments have been subject to SSG measures. The 'bottom line' in Table A2.1 is '0.5 percent,' and the base for this figure is the total over the 72 tariff lines over which SSG measures were applied. It does not take into account the other 108 tariff lines that were screened against trigger prices but on which no SSG actions were taken. Even among the products on which some shipments were subject to SSG duties, SSG measures have been applied to a small share of imports. Of on which the United States reported SSG price-based action, the actions were applied to less than 1 percent of imports.

The obvious conclusion is that SSG price-based measures have been applied to a small fraction of imports that are screened for such application.

#### Trigger prices compared with import unit values

There are several possible explanations for this low figure:

- The minimum price system works – exporters do raise their prices to avoid paying SSG duties.
- There is sufficient space between US bound and applied tariff rates so that minimum prices (prices at the level of the trigger prices) can be enforced without recourse to the additional duties the SSG allows.
- Import unit values in 2006 were generally above the trigger prices, i.e., above 1986-88 prices.

Of the three explanations, we have looked into only the third. To do so we calculated unit values for each of the tariff lines for which the US had posted up-front trigger prices – and for which we were found import quantity data so that unit values could be calculated. (The reader should not that these unit values are calculated from imports from all sources.) Table A2.2 summarizes our findings.



Table A2.2: Summary of Comparison of United States SSG Trigger Prices and 2006 Unit Values of Imports from all sources<sup>a</sup>

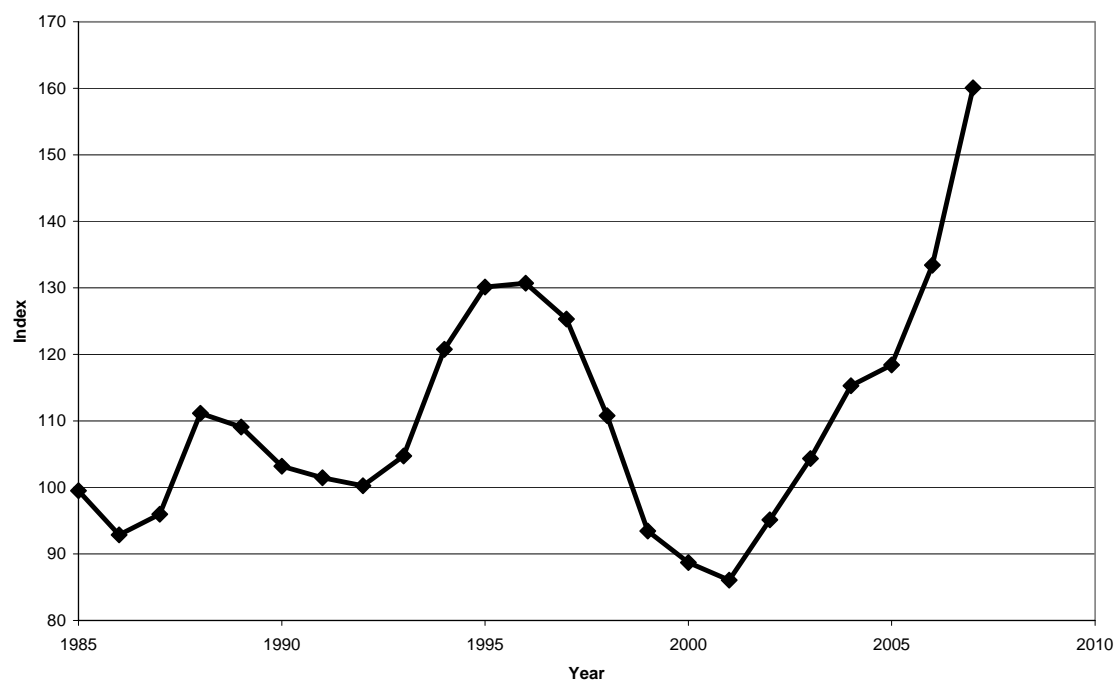
	Number of tariff lines
With Posted Trigger Prices <sup>b</sup> and Quantity data to allow calculation of Unit Values	120
All source unit value above trigger price	104
All source unit value below trigger price	16
SSG measures were applied to at least one shipment	57
of these, the Unit Value for all import shipments was less than the Trigger Price	12

Notes:

- a. These unit values were calculated for imports from all sources. SSG measures are applied by screening each shipment against trigger prices.
- b. The United States posted 'upfront' trigger prices for 180 tariff items – as reported in WTO document G/AG/N/USA/1/Add.1, 02 November 1995. For 60 of these we were not able to obtain import quantity data.

One more matter we examine here is how agricultural prices in 2006 – the only year for which we have compared them with trigger prices – compare with other years when Members might have applied SSG measures. Figure A2.1 indicates that generally speaking, agricultural prices have been higher than their level in the SSG base period (1986-88) but in the four years 1999-2002 were notably below that level. Even so, as Table A1.5 documents, that period was not marked by a larger number of SSG actions.

Figure A2.1: Index of global prices of agricultural products, 1986-88=100



Source: World Bank's Development Prospects Group web data.

Conclusions from this annex

1. The United States, like other Members, has applied SSG measures to only a few of the tariff lines on which they – legally speaking – might have applied them.
2. Even on these tariff lines they have applied SSG measures to only a small percentage of shipment.
3. In 2006, the only year for which we have compared trigger prices with import unit values, trigger prices were in large part irrelevant – unit values were substantially above them.
4. In years in which agricultural prices were below their 1986-88 level (the base for the trigger prices) members applied hardly more SSG measures than when they were below that level.
5. The SSG formula provide Members with legal discretion to apply additional import restrictions, Members have not used them as guidelines as to when it makes sense to apply import restrictions.

### Annex 3: Further analysis of unit value differentials in developing country imports

Table A3.1: Unit Value Simulation: Percentages of agricultural imports from individual countries with unit values at least 15 percent less than the unit value of imports from all sources – by importing country

Importer	Imports from all countries* (\$ '000)	% Imports coming from DCs	% of Imports with unit value 15 percent or more below unit value of imports from all sources	
			from Industrial countries	from developing countries
Brazil	1,504,351	99	47.8	4.4
China	9,608,243	59	0.2	2.4
India	1,309,936	56	0.1	0.3
Indonesia	2,275,094	26	2.5	24.0
Malaysia	2,489,827	66	1.2	14.0
Mexico	4,589,471	5	3.2	7.8
All above countries	21,776,922	48	1.8	5.7

\* Imports of the countries in the sample: Brazil, China, India, Indonesia, Malaysia and Mexico

For the six developing countries whose import data were examined, the unintended consequence this exercise has brought forward would be authorization for restrictions on almost 6 percent of agricultural imports from developing countries, on about 2 percent of agricultural imports from developed countries – at least one restriction on more than half of the tariff lines.

Table A3.2: Unit Value Simulation: Numbers of actions triggered, by importing country and  
Numbers of tariff lines on which the hypothetical trigger would impose an import restriction on  
imports from at least one country

	Total # of restrictions against ICs	Total # of restrictions against DCs	Total # of restrictions against DCs + ICs	Number of HS lines with at least one restriction	Total nu of HS lin with imp
China	15	24	39	15	
India	10	18	28	13	
Indonesia	30	49	79	17	
Malaysia	12	34	46	20	
Brazil	5	9	14	9	
Mexico	11	9	20	13	
Of these:					
Asian countries	67	125	192	65	
Latin American countries	16	18	34	22	
All six countries	83	143	226	87	

## **Annex 4: Levels of Bounds and Applied Tariff Rates, Spreads between Bound and Applied Rates**

Table A4.1 documents differences across Member groups, Tables A4.2 and A4.3 document differences within groups.

### Levels of rates

Tariff rates vary considerably among Members, differences within income groups being as large as those between these groups. Among middle income members, averages of applied rates range 6 percent for Chile and Russia to over 60 percent for Tunisia and Egypt. But even among high income members the range is large. The category in the last line of Table A4.1, High Income OECD Members, includes Australia and New Zealand, whose applied rates average below 2 percent. It also includes Norway, the Rep. of Korea and Switzerland, whose applied rates average more than 40 percent. Even among G-33 countries the differences are large. Eight G-33 countries have no agricultural tariff lines bound above 60 percent; for 9 countries all of their agricultural tariff lines carry bound rates above 60 percent. (Table A4.3)

### Spreads of rates

From group to group, spreads between bound and applied rates range from almost 60 percentage points for Low Income Members to about 17 percentage points for High Income OECD Members. (right-hand column of Table A4.1) There are however pronounced variations within income groups. Within the 10 Members categorized in Tables A4.1 and A4.2 as High Income OECD Members (the EC-27 is treated as one WTO Member) the spread between bound and applied rates is near zero for several Members, above 60 percentage points for others. Among developing Members, the spread is near zero, for example, for China and the three Chinese customs territories treated as separate WTO Members (Hong Kong, China; Macau, China and Chinese Taipei); over 100 percentage points for a number of others. (Table A4.2)

Table A4.1: Average<sup>a</sup> applied and bound tariff rates<sup>b</sup> on agricultural products, by World Bank categories, 2008

	Bound Rate	Applied Rate	Spread: (Bound minus Applied) <sup>c</sup>
Developing countries (129) <sup>d</sup>	61.1	16.8	45.0
Low Income (52)	74.2	16.2	58.3
Middle Income (77)	53.2	17.2	36.8
High Income Non-OECDs (14)	39.5	9.2	32.0
High Income OECDs (10)	42.5	25.4	17.1

Source: Tabulated from WTO, World Tariff Profiles 2008; WTO website [http://www.wto.org/english/res\\_e/booksp\\_e/tariff\\_profiles08\\_e.pdf](http://www.wto.org/english/res_e/booksp_e/tariff_profiles08_e.pdf) (16 January 2009)

Notes:

a These averages are simple averages across countries of simple averages of rates by tariff line for each country. The number of WTO members covered by the averages are: 46 Low Income, 79 Middle Income, 14 High Income non-OECD, and 10 High Income OECD. The EC-27 is treated as one Member.

b *Ad valorem* equivalents.

c Averages of country differences rather than differences of the averages in the previous columns.

d Numbers in parentheses are the numbers of WTO Members in each group covered by the data base.

Table A4.2: Examples of high and low tariff rates on agricultural products within groups (simple averages across WTO Members of simple averages across tariff lines for each Member) 2008

LOW INCOME				MIDDLE INCOME			
<u>Lowest applied</u>		<u>Highest applied</u>		<u>Lowest applied</u>		<u>Highest applied</u>	
Palau	2.7	Sudan	30.6	Russian Fed.	5.3	Turkey	46.7
Mongolia	5.1	India	34.4	Chile	6.0	Tunisia	65.1
Haiti	5.7	Bhutan	41.4	Armenia	6.9	Egypt	66.4
<u>Lowest bound</u>		<u>Highest bound</u>		<u>Lowest bound</u>		<u>Highest bound</u>	
Kyrgyz Republic	13.1	Zimbabwe	140.1	Albania	9.4	Tunisia	116.3
Cote d'Ivoire	14.9	Nigeria	150.0	Ukraine	10.9	Mauritius	119.6
Viet Nam	18.5	Bangladesh	192.0	Montenegro	11.3	Lesotho	200.0
<u>Smallest Spread: Bound - Applied</u>		<u>Largest Spread: Bound - Applied</u>		<u>Smallest Spread: Bound - Applied</u>		<u>Largest Spread: Bound - Applied</u>	
Cote d'Ivoire	0.4	Zimbabwe	114.7	China	0.0	Saint Lucia	99.8
Kyrgyz Republic	5.1	Nigeria	134.4	Croatia	0.6	Mauritius	112.2
Central African Rep.	8.1	Bangladesh	175.1	Albania	1.6	Lesotho	190.4
HIGH INCOME NON-OECD				HIGH INCOME OECD			
<u>Lowest applied</u>		<u>Highest applied</u>		<u>Lowest applied</u>		<u>Highest applied</u>	
Hong Kong, China	0.0	Israel	17.1	Australia	1.3	Switzerland	43.5
Macau, China	0.0	Taipei, Chinese	17.5	New Zealand	1.7	Korea, Rep.	49.0
Singapore	0.1	Bahamas	23.6	United States	5.5	Norway	57.8
<u>Lowest bound</u>		<u>Highest bound</u>		<u>Lowest bound</u>		<u>Highest bound</u>	
Hong Kong, China	0.0	Israel	73.3	Australia	3.3	Korea, Rep.	59.3
Macau, China	0.0	Kuwait	100.0	United States	5.0	Iceland	109.3
Taipei, Chinese	18.4	Antigua & Barbuda	105.0	New Zealand	5.7	Norway	135.8
<u>Smallest Spread: Bound - Applied</u>		<u>Largest Spread: Bound - Applied</u>		<u>Smallest Spread: Bound - Applied</u>		<u>Largest Spread: Bound - Applied</u>	
Hong Kong, China	0.0	Israel	56.2	Canada	0.0	Switzerland	10.8
Macau, China	0.0	Antigua & Barbuda	90.0	United States	0.0	Iceland	68.5
Taipei, Chinese	0.9	Kuwait	96.0	European Communities	0.0	Norway	78.0

Source: Same as Table A4.1



Table A4.3: Bound tariff rates (*ad valorem* equivalents) on agricultural products; Examples of differences among G-33 countries

Dimension	Low <sup>a</sup>	Middle	High
Median rate	China, 13% Cote d'Ivoire, 15%	Turkey, 58%	Zimbabwe, 150% Nigeria, 150%
Maximum rate	Suriname, 20% Mongolia, 40%	Venezuela, 135%	Korea Rep, 887% Botswana, 597%
Percentage of tariff lines with rate above 60 percent	8 countries, 0%	Botswana, 16%	9 countries, 100%

Source: Tabulated from Jales 2005, Table 1, p. 8.

Note: a The figures following the commas are *ad valorem* equivalent rates.